

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
AGENDA
ROSE ROOM
CREEKMORE PARK COMMUNITY CENTER
5:30 P.M.
June 12, 2018**

I. ROLL CALL

II. APPROVAL OF MINUTES FROM MAY 8, 2018

III. STAFF COMMENTS AND PROCEDURES

1. Election of Chairperson
2. Rezoning Application #16-6-18; A request by Jesse Fenwick, agent for Jennifer Grayston, for a zone change from Commercial Light (C-2) to a Planned Zoning District (PZD) at 3123 Jenny Lind Road
3. Rezoning Application #15-6-18; A request by Ron Brixey, agent for Norris & Kindrick, LLC, for a zone change from not zoned to Commercial Light (C-2) by Classification at 7601 Massard Road
4. Development Plan #8-6-18; A request by Ron Brixey, agent for Norris & Kindrick, LLC, for a Development Plan approval for a Medical Clinic at 7601 Massard Road
5. Subdivision Variance # 22-6-18; A request by Ricky Hill, agent for Stephen & Mary Young, for a variance from UDO Section 27-504-3(A)(B) (private access easements) at 14&18 Free Ferry North

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

6. Variance #21-6-18; A request by Ricky Hill, agent for Stephen & Mary Young, for maximum street frontage from 50' to 0' at 14 Free Ferry North
7. Variance #18-6-18; A request by Neal Morrison, agent for Roger Cook, for required street access from Major Collector or Higher Street Classification to a Local Road Classification at 12201 Old Hwy 71

**RECESS BOARD OF ZONING ADJUSTMENT
CONVENE PLANNING COMMISSION**

8. Master Land Use Plan #5-6-18; A request by Neal Morrison, agent for Roger Cook, for a Master Land Use Amendment from not classified to General Commercial at 12201 Old Hwy 71
- 9A. Rezoning Application #14-6-18; A request by Neal Morrison, agent Roger Cook, for a zone change from not zoned to Commercial Moderate (C-3) by Extension at 12201 Old Hwy 71
- 9B. Deferral of Development Plan; A request by Neal Morrison, agent for Roger Cook, to defer the submittal of a Development Plan at 12201 Old Hwy 71

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

10. Variance #17-6-18; A request by Charles Flemming, owner, for the following variances: 1) from 7.5' to 2.4' interior side-yard setback; and 2) from 10' to 2.5' rear-yard setback at 501 North 35th
11. Variance #19-6-18; A request by Taylor Meharg, agent for Spirit Master Funding VI, LLC, for an interior side-yard setback from 20' to 0' at 3100 Grand Avenue
12. Variance #20-6-18; A request by David Humphrey, owner, for the following variances: 1) from 7.5' to 0' interior side-yard setback; and 2) from 10' to 0' minimum distance between structures on the same lot at 8819 Lee Circle

PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT MINUTES

ROSE ROOM: CREEKMORE PARK COMMUNITY CENTER

May 8, 2018 – 5:30 P.M.

On roll call, the following commissioners were present: Don Keesee, Richard Morris, Shane Laster, Vicki Newton, Kelly Wilson, Ret Taylor, Marshall Sharpe and Bob Cooper. Commissioner Josh Carson was absent.

Chairman Sharpe then called for the vote on the minutes from the April 10, 2018, meeting. Commission Sharpe made one amendment. A motion was made and seconded to approve the minutes as corrected.

Ms. Brenda Andrews spoke on the procedures.

1. Stonecrest Addition Subdivision- Final Plat, Lots 1-31 and Tracts A & B- McClelland Consulting Engineers, Inc.

Ms. Brenda Andrews read the staff report indicating approval of the proposed final plat would facilitate the development of 32 duplexes. Ms. Andrews stated the existing zoning is Residential Single Family-Duplex Medium/High Density (RSD-3). Ms. Andrews further stated that the RSD-3 zoning district provides for medium to high density, compact single family detached and duplex development on new sites and as infill construction.

Adam Lesso, project engineer with McClelland Consulting Engineers, Inc. was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Sharpe called for a vote on the final plat with staff comments, subject to the following:

- Board approval of a Temporary Revocable License to allow fencing and brick columns in public utility easements.
- After all required approvals of the plat and the affixing of all required signatures on the original tracing and other copies and associated documents, the plat will be filed with the county clerk.

The vote was 8 in favor and 0 opposed. Chairman Sharpe announced the item was approved.

2. Off-Site Parking; A request by Reagan Angus, owner, for a remote parking agreement at River Valley Gymnastics at 4615 South 16th Street.

Ms. Maggie Rice read the staff report indicating approval would allow River Valley Gymnastics to have the minimum number of required off street parking spaces. Ms. Rice stated a minimum of 40 parking spaces are required for River Valley Gymnastics and their property only has 14 onsite parking spaces. With the shared parking agreements, Mr. Angus has 40 spaces thus satisfying the parking requirements for the proposed use.

Reagan Angus, owner, was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Sharpe called for a vote on the remote parking agreement, subject to the following:

- The remote parking agreement must be filed with the Sebastian County Clerk's office and copies of file- marked agreements provided to the Planning Department.

The vote was 8 in favor and 0 opposed. Chairman Sharpe announced the item was approved.

3. Subdivision Variance #14-5-18; A request by Ricky Hill, agent, for Danny and Brooke Loe, for a variance from UDO Section 27-503-2(E) (access on residential collector) at 4902 East Valley Road.

Ms. Brenda Andrews read the staff report indicating approval of the subdivision variance would allow the owner to subdivide the subject property into two lots. Ms. Andrews stated that the new lot would provide a circle driveway for a future single-family residence that would have access onto East Valley Road, which is classified as a Residential Collector.

Ricky Hill, agent, was present to represent this application.

No one was present to speak in favor or opposition of application.

Chairman Sharpe called for a vote on the subdivision variance, subject to the following:

- Approval is contingent upon the submitted site plan that shows a circle drive on the Tract 1. Other approved maneuvering or 'turnaround' designs must be approved by the Planning and Engineering Department of the City.
- The approval of this subdivision variance is for the future development of a single family home.

The vote was 8 in favor and 0 opposed. Chairman Sharpe announced the item was approved.

4. Master Land Use Plan Amendment #4-5-18; A request by Ron Brixey, agent, for Goodson's Enterprises, Inc., and Eugene Kersh, for a Master Land Use Plan Amendment from Office Research and Light Industrial to Commercial Neighborhood at 5500 Massard Road.

5. Rezoning Application #13-5-18; A request by Ron Brixey, agent, for Goodson's Enterprises, Inc., and Eugene Kersh, for a zone change from Planned Zoning District (PZD) to Commercial Light (C-2) by extension at 5500 Massard Road.

Ms. Maggie Rice read the staff report indicating approval of the Master Land Use Plan Amendment and Rezoning would allow a potential buyer to utilize the existing building as a bike shop with portions of the building being rented for retail or commercial uses. Ms. Rice stated that a neighborhood meeting was held Thursday, April 26, 2018, at the Dallas Street Branch Library. One surrounding property owner was in attendance, but did not have any objections.

Ron Brixey, agent, was present to represent this application.

No one was present to speak in favor or opposition of these applications.

Chairman Sharpe called for a vote on the Master Land Use Plan Amendment, subject to the following:

- Contingent upon the approval of the companion rezoning application.

The vote for the Master Land Use Plan Amendment was 7 in favor and 1 abstention (Cooper). Chairman Sharpe announced that item was approved.

Chairman Sharpe then called for a vote on the Rezoning.

The vote for the Rezoning was 7 in favor and 1 abstention (Cooper). Chairman Sharpe announced that item was approved as well.

6. Home Occupation #4-5-18; A request by Pilhyun You for clothing alterations at 4319 S. 22nd Street.

Ms. Maggie Rice read the staff report indicating approval of the Home Occupation would allow the applicant to operate a clothing alterations business from the home. Ms. Rice stated that the property currently has five parking spaces with the existing driveway. The five spaces will accommodate the applicant's two cars and any customer parking on the site. Ms. Rice further stated that the applicant understands and has confirmed that customers will be by appointment only as indicated on the application. The applicant has also confirmed that no items will be drop-shipped or delivered to the residence.

No one was present to speak in favor or opposition of this application.

Chairman Sharpe called for a vote on the Home Occupation, subject to the following:

- All minimum requirements for Home Occupations and the statements listed in the Home Occupation application.
- The business license cannot be transferred to another residence without a new Home Occupation Application.

The vote was 8 in favor and 0 opposed. Chairman Sharpe announced this item was approved.

**RECESS PLANNING COMMISSION
CONVENE BOARD OF ZONING ADJUSTMENT**

7. Variance #15-5-18; A request by Ricky Hill, agent, for Colt Smith, for the following variances; 1.) From 25' to 10' interior side-yard setback (south property line on proposed Tract 2); 2.) From 25' to 10' interior side-yard setback (north property line on proposed Tract 3); and 3.) From 20' to 0' and 20' to 15' rear-yard setback on proposed Tract 3 at 8220 Highway 271.

Ms. Maggie Rice read the staff report indicating approval of the following variances would allow the property owner to subdivide the property for future sales. Ms. Rice stated the applicant claims hardship due to the locations of the existing buildings, which do not allow compliance with the required minimum 25' interior side yard setbacks or the 20' rear yard setback. Ms. Rice stated that without the variances, the property cannot be subdivided and sold as individual lots.

Ricky Hill, agent, was present to represent this application.

No one was present to speak in favor or opposition of this application.

Chairman Sharpe called for a vote on the following variances, subject to the following:

- Approval is based on the submitted site plan.
- Development of proposed Tract 1 shall require submittal of a development plan for planning commission review and approval prior to new construction.

The vote was 7 in favor and 1 abstention (Cooper). Chairman Sharpe announced this item was approved.

- 8. Variance #16-5-18; A request by Brett Abbott, agent, for Keith Lau, for the following variances: 1.) From 30' to 25' front-yard setback; 2.) From 30' to 25' exterior side-yard setbacks (proposed lots 6A & 6B); and 3.) 10,500 s.f. minimum lot size/4 dwellings per acre to 9,600 s.f. minimum lot size/ 4.6 dwellings per acre at 1001, 1011, & 1021 N. 49th Street.**

Ms. Brenda Andrews read the staff report indicating approval of the following variances and the companion development plan will facilitate the development of six duplexes (12 dwelling units) and the subdivision of three lots into six lots. Ms. Andrews stated that the applicant claims hardship and explains that the variance requests would allow vehicle parking under the proposed duplexes and provide the desired unit size. Ms. Andrews further stated that a neighborhood meeting was held on Monday, April 30, 2018, at 2912 Rogers Avenue and indicated that no neighborhood property owners attended this meeting.

Betina Rowsey (1123 N. 49th Street), Roberta Parks (1116 N. 49th Street), Sandy Diamond (1104 N. 49th Street) and Barbara Williams (1201 N. 49th Street) were present to speak in opposition of these request. They stated concerns with decreased property value, increased traffic and noise.

Brett Abbott, agent, spoke on behalf of these applications. Mr. Abbott stated that the property owner is proposing these duplexes as University housing for the students. Mr. Abbott further stated that these duplexes would have a new structure, new materials and landscaping to increase the property values. Mr. Abbott stated that each duplex has four bedrooms and the owner proposed to base the rent per bedroom. Commissioner Laster stated this type of arrangement sounded like a multifamily development

Commissioner Don Keese asked Mr. Abbott if the lot size and shape were suitable for the neighborhood. Mr. Abbott stated that the lot size was suitable for a single family dwelling and the lot shape was rectangle.

Commissioner Kelly Wilson asked Mr. Abbott about the design of the duplexes. She expressed concerns about budget fluctuations and if it would have any impact on the design. Mr. Abbott stated that they have been in contact with the builder and felt confident in the budget cost.

Chairman Sharpe called for a vote on the following variances, subject to the following:

- Contingent upon approval of the companion development plan application.

The vote for the following variances was 6 in favor and 2 opposed (Laster and Newton). Chairman Sharpe announced this item was approved.

RECESS BOARD OF ZONING ADJUSTMENT CONVENE PLANNING COMMISSION

9. Development Plan #7-5-18; A request by Brett Abbott, agent, for Keith Lau, for a development plan approval for a duplex development at 1001, 1011, & 1021 N. 49th Street.

Chairman Sharpe called for a vote on the development plan, subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

The vote for the development plan was 6 in favor and 2 opposed (Laster and Newton). Chairman Sharpe announced this item was approved.

There being no further items, the meeting adjourned at approximately 6:45 p.m.

Memo

To: City Planning Commission

From: Planning Staff

Date: May 29, 2018

Re: Rezoning #16-6-18 - A request by Jesse Fenwick, agent for Jennifer Grayston, for Planning Commission consideration of a rezoning request from Commercial Light (C-2) to Planned Zoning District by classification at 3123 Jenny Lind Road

PROPOSED ZONING

The rezoning will allow the applicant to utilize the existing building for an animal shelter specifically for cats. The PZD allows additional land uses allowed in a Commercial Light (C-2) zone as well as some pet service land uses that are not currently permitted in Commercial Light (C-2).

LOT LOCATION AND SIZE

The subject property is on the northeast corner of Dallas Street and Jenny Lind Road. The tract contains an area of 0.56 acres with approximately 140 feet of street frontage along Dallas Street and 174 feet of street frontage along Jenny Lind Road.

REQUESTED ZONING

The applicant has requested a Planned Zoning District (PZD). The purpose of a Planned Zoning District is to assure control of certain development while providing the applicant a means of gaining commitment without undue financial risk. Specifically the purposes of a PZD are to encourage:

- Comprehensive and innovative planning and design of diversified yet harmonious development consistent with the comprehensive plan;
- Better utilization of sites characterized by special features of geographic location, topography, size, or shape;
- Flexible administration of general performance standards and development guidelines;
- Primary emphases shall be placed upon achieving compatibility between the proposed developments and surrounding areas to preserve and enhance the neighborhood through the use of enhanced site design, architecture, landscaping, and signage.
- Developments that utilize design standards greater than the minimum required by the UDO.

EXISTING ZONING

The existing zoning on this tract is Commercial Light (C-2).
Characteristics of this zone are as follows:

Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 10 feet	
Side Yard Setback – 10 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned C-2 and is developed as doctors office and clinic.

The area to the east is zoned C-2 and is developed as an apartment complex.

The area to the south is zoned RSD-2 and is developed as Ramsey Junior High School.

The area to the west is zoned C-2 and is developed as a shopping center containing a book shop and salon.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Jenny Lind Road and Dallas Street as residential collectors.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Neighborhood Commercial. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise.

PROJECT BOOKLET

A copy of the project booklet is enclosed for your review. The following criteria shall be considered by the Planning Commission when reviewing the project booklet:

- A.** Is the site capable of accommodating the building(s), parking areas and drives with the appropriate open space provided?
- B.** Does the plan provide for safe and easy ingress, egress and internal traffic circulation?
- C.** Is the plan consistent with good land use planning and site engineering design principles, particularly with respect to safety?
- D.** Are the architectural designs consistent with the City of Fort Smith policies and regulations and compatible with surrounding land use features?
- E.** Does the Plan represent an overall development pattern that is consistent with the Comprehensive Plan, Master Street Plan, Master Land Use Plan, and other adopted planning policies?
- F.** The required right-of-way dedication has been identified by the City Engineering Department?
- G.** All easements and utilities shall meet the requirements of the approving departments and agencies?

- H. Articulate how the plan minimizes or mitigates the impact of increased traffic both in volume and vehicle size.
- I. Articulate how the plan exceeds the UDO requirements. (e.g. increased landscaping increased high quality materials, etc.)

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – Ingress and egress will occur from the existing driveways.

Landscaping & Screening – The applicant is proposing to utilize the property as is. However, any future development will meet the UDO’s requirement for landscaping. Additionally, the applicant stated they are having an issue with cut through traffic trying to avoid the traffic signal. In order to eliminate the cut through traffic problem, the applicant proposes to remove the stand alone canopy from the parking lot and install landscaping at the corner of the property.

Parking – The UDO requires six spaces for an animal shelter.

Signage – The applicant is proposing to remove the pole sign on the property. Any future signage will be limited to monument signs no larger than 50 square feet and façade signage.

Architectural Features – The applicant is proposing to utilize the existing building. Exterior changes include enclosing the bay doors and covering the entire building with stucco. If new construction is required in the future it will be 100% high quality materials. Also, the applicant intends to paint a mural on the façade of the building featuring cats. The stand along canopy and underground tanks will be removed from the site.

FACTORS TO BE CONSIDERED

Approval, approval as amended, or denial of the application and project booklet shall be based on the following factors as outlined in Section 27-341-3(E) of the UDO:

- A. Compatibility with the Comprehensive Plan, Master Street Plan, and applicable area plans (e.g., corridor, neighborhood)
- B. Compatibility of the proposed development with the character of the neighborhood.
- C. The zoning and uses of adjacent and nearby properties, and the compatibility of the proposed future uses with those existing uses.
- D. The extent to which the proposed land use would increase or change traffic volume or parking demand in documented evidence or engineering data, road conditions, road safety, or create parking problems in combination with any improvements that would mitigate these adverse impacts.
- E. The current availability of public utilities and services and the future capacity needed to adequately serve the proposed land use in combination with any improvements that would mitigate these adverse impacts.

- F. That the application complies with all relevant ordinance requirements (for example 27-200, 27-500, 27-600, and 27-700).

NEIGHBORHOOD MEETING

A neighborhood meeting was held on Thursday, May 24th, 2018 at 4:30 P.M. on site.

Eight surrounding property owners attended the meeting and asked questions but had no opposition.

STAFF COMMENTS AND RECOMMENDATIONS

The proposed use of the structure is a feline rehabilitation and rescue center. The UDO would classify this use as an *animal shelter* therefore not restricting the animals to felines. This rezoning is required because the current C-2 zoning does not allow for this land use. The proposed land use chart submitted with the project booklet eliminates several Commercial Light (C-2) land uses such as *thrift store*, and *beer, wine, or liquor store*, etc. but allows for additional animal and pet services land uses such as *pet shop* and *pet supply store*. The applicant is not proposing any outdoor animal land uses as indicated in the land use chart.

The PZD booklet appears to comply with Section 27-341-3 (E) of the UDO. Staff recommends approval.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

Lots 1, 2, and 3, Wedge Place, Fort Smith, Sebastian County, Arkansas

2. Address of property: 3123 Jenny Lind Road
3. The above described property is now zoned: C-2 (Commercial Light)
4. Application is hereby made to change the zoning classification of the above described property to a Planned Zoning District.
5. Explain why the Planned Zoning District is requested?

The Owner proposes to re-purpose the property to provide an animal shelter for
domestic cats

Signed:

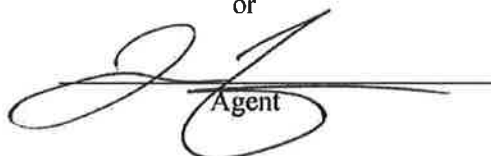
Jesse Fenwick

Owner or Agent Name
(please print)

2621 Dallas Street
Fort Smith, Arkansas 72901
Owner or Agent Mailing Address

Owner

or


Agent

417-559-5159
Owner or Agent Phone Number

NOTICE OF PUBLIC HEARING

Notice is hereby given that the undersigned, as owner(s) or agent for the owner(s) of the following described property in the Fort Smith District of Sebastian County, Arkansas, to wit:

Lots 1, 2, and 3, Wedge Place, Fort Smith, Sebastian County, Arkansas

Address of property 3123 Jenny Lind Road has filed with the Director of Planning a
(Street Address)
written application to City of Fort Smith, Arkansas, to request a zone change from
C-2 (Commercial Light) to a Planned Zoning District by Classification.
(Classification or Extension)

The undersigned will present said application to the City Planning Commission at its first regular meeting following the expiration of fifteen (15) days from the date of this publication, at which meeting the Planning Commission will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard.

This notice published this _____ day of _____, 20____.
(City will insert Date)

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

Lots 1, 2, and 3 Wedge Place

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

None


Signature

(If no restrictive covenants exist, indicate "none".)*

LIST OF OWNERS OF ALL PROPERTY TO BE REZONED

List the names and addresses of all owners of property included within the area requested by this petition to be rezoned.

<u>NAME</u>	<u>ADDRESS</u>
1. Jennifer Grayston	2621 Dallas Street, Fort Smith, Ar. 72901
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Jesse Fenwick to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

1. Jennifer Grayston
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

SIGNATURE OF ALL OWNERS.

Job Haupt

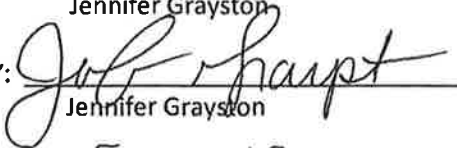
This form is necessary only when the person representing this request does not own all property.

PLANNED ZONING DISTRICT

CERTIFICATION STATEMENT

Jennifer Grayston owner of the property located at 3123 Jenny Lind Road does hereby certify that the Project Booklet for a Planned Zoning District complies with the City of Fort Smith's Planned Zoning District Regulations as defined in Section 27-341 of the Fort Smith Unified Development Ordinance

I hereby agree to the terms and conditions with the Project Booklet, and request the City of Fort Smith to approve the zoning.

Jennifer Grayston
BY: 
JENNIFER GRAYSTON
DATE: 5-15-18

NOTICE OF NEIGHBORHOOD MEETING

PURPOSE:

The properties located at 3123 Jenny Lind Road is currently a closed service station. The owner proposes to re-purpose the property as an animal shelter for domestic cats. In order to comply with City Codes, the owner has submitted a Petition for Change in Zoning from C-2 (Commercial Moderate) to PZD (Planned Zoning District)

The owner proposes to remove the canopy located south of the building, permanently close in the bay doors, and reconfigure the office area by replacing the glass exterior walls with solid walls leaving windows on the west and south sides.

The application for request of Zone change requires that a Neighborhood Meeting be conducted to allow the neighbors the opportunity to ask questions and to comment on the proposal.

WHO SHOULD ATTEND

All owners of property located within 300 feet of the subject property are invited to attend.

WHAT WILL BE DISCUSSED

Any concerns or comments the neighboring owners might have will be discussed. A representative of the City will be available to discuss City regulations, limitations, and review procedures.

MEETING LOCATION

The meeting will be held on site at 3123 Jenny Lind Road.

MEETING TIME

The meeting will be held at 4:30 PM on Thursday, May 24, 2018.

CONTACT PERSON

Those who cannot attend the meeting can contact the owner, Jennifer Grayston by telephone at 918-315-2350 or Jesse Fenwick by telephone at 417-559-5159.

**JEN'S KITTY REHAB
PROJECT BOOKLET
PLANNED ZONING DISTRICT APPLICATION**

**PROJECT: JEN'S KITTY REHAB
LOTS 1, 2, AND 3, WEDGE PLACE
FORT SMITH, SEBASTIAN COUNTY, ARKANSAS**

**LOCATION: 3123 JENNY LIND ROAD
FORT SMITH, ARKANSAS**

**OWNER: JENNIFER GRAYSTON
2621 DALLAS STREET
FORT SMITH, ARKANSAS 72901
PHONE: 918-315-2350**

**SUBMITTED TO: CITY OF FORT SMITH
623 GARRISON AVENUE
FORT SMITH, ARKANSAS 72902**

**ENGINEERS: BRIXEY ENGINEERING & LAND SURVEYING, INC.
P.O. BOX 6180
FORT SMITH, ARKANSAS 72906**

JUNE, 2018



**RONALD BRIXEY
ARK. REG. P.E. NO. 4456**

**JEN'S KITTY REHAB
PROJECT BOOKLET
PLANNED ZONING DISTRICT APPLICATION**

3a. Reason (need) for requesting the zoning change and response to how the proposal fulfills the intent/purpose of the Planned Zoning District.

The owner of the tract located at 3123 Jenny Lind Road recently purchased the property with the intent of re-purposing the currently vacant service station to use as a non-profit rehabilitation facility for domestic cats.

The intent is to remodel the existing structure by walling off the bay doors, walling off the glass office walls leaving standard windows, finishing the outside walls with stucco, and reworking the floor plan. The canopy connected to the building on the west side will remain and the free standing canopy south of the building will be removed. The existing pole sign will be removed. Any new signage will be facade or monument signs.

3b. Current ownership information (landowner/applicant and representative if applicable) and any proposed or pending property sales.

The property is owned by Jennifer Grayston, 2621 Dallas Street, Fort Smith, Arkansas 72901 Phone 918-315-2350.

The agent for the owner is Jesse Fenwick, 2621 Dallas Street, Fort Smith, Arkansas 72901 Phone 918-315-2350.

3c. Summary description of the scope, nature, and intent of the proposal.

The PZD will include an area of approximately 0.56 acres located at the northeast quadrant of the intersection of Jenny Lind Road and Dallas Street.

Proposed PZD uses will allow uses allowed by the current C-2 zoning with several exclusions. The PZD will also allow a variety of uses related to pet and animal services. (see Chart 1).

The intent is to remodel the existing structure by walling off the bay doors, walling off the glass office walls leaving standard windows, finishing the outside walls with stucco, and reworking the floor plan. The canopy connected to the building on the west side will remain and the free standing canopy south of the building will be removed. The existing pole sign will be removed. Any new signage will be facade or monument signs

3d. General project scope:

i. Street and lot layout

See attached Property Survey.

Access to the site will be from Jenny Lind Road and Dallas Street. Both streets are classified as Residential Collector Streets.

ii. Site plan showing proposed improvements

No additional structures are proposed at this time. The interior of the building is to be remodeled and bay doors closed in.

See attached Property Survey for existing improvements.

iii. Buffer areas, screening, and landscaping

The current plan is to close in the bay doors on the building, remodel the interior, and finish the exterior with stucco. Buffer areas, Landscaping, and Screening for any new construction on the site will comply with all requirements of Section 27-602 of the UDO. The existing privacy fence on the north side will be repaired or replaced to bring it to like-new condition.

iv. Storm water detention areas and drainage

No drainage or detention improvements will be required.

v. Undisturbed natural areas

No undisturbed natural areas are proposed.

vi. Existing and proposed utility connections and extensions

No utility extensions are proposed at this time. Should any extensions be required by future modifications or construction, detailed plans and specifications will be submitted to the City for review.

vii. Development and architectural design standards

Development and architectural design standards will comply with the requirements of UDO Section 27-602 - Design Guidelines as follows:

Exterior Building Facade

All exterior facade materials will exceed the requirements of High Quality

Materials as listed under section 27-602-4 C.2 of the UDO by increasing the requirement from 51 percent coverage to 100 percent coverage on existing and any future structures..

viii. Building elevations

No new buildings are proposed at this time.

All future improvements on the property will be constructed to meet or exceed the requirements of the UDO which are set up to minimize adverse effects of the appearance of new developments on surrounding properties as follows:

Exterior Building Facade

All exterior facade materials will exceed the requirements of High Quality Materials as listed under section 27-602-4 C.2 of the UDO by increasing the requirement from 51 percent coverage to 100 percent coverage on existing and any future structures..

ix. Proposed signage (type and size)

The existing pole sign will be removed.. Any future signage will be limited to monument signs with a maximum surface area of 50 square feet. Facade signage will also be allowed.

3e. Proposed development phasing and timeframe

The current development plan is limited to architectural changes inside the existing structure and modification of doors and windows. This work is proposed to be constructed in one phase.

Construction is to begin July 15, 2018 and be completed by September 15, 2018.

All dates are approximate.

3f. Identify land use designations

The current land use designation of the property is Commercial Neighborhood.

3g. Identify area and bulk regulations

Bulk and Area requirements for the PZD are as shown below(same as C-2).

Min. Lot Size	7,000 s.f.
Min. Lot Width at BSL	50 feet

Max. Lot Coverage	60%
Max. Height	35 feet
Addnl. Height	see 27-404 D. of the UDO

Setbacks	
Front	25 feet
Side	10.0 feet
Street side/corner	10 feet
Rear	10 feet
Side/Rear Adjacent to	30 feet
RS dist/development	
Minimum Street Frontage	60 feet
Minimum Bldg Separation	10 feet

3h. A chart comparing the proposed planned zoning district to the current zoning district requirements (land uses, setbacks, density, height, intensity, bulk and area regulations, etc.)

Comparison is between the proposed PZD restrictions and the RSD-2 restrictions.
See Chart 1 - PZD Permitted Land Uses vs. Current Zone Land Uses.

	PZD	C-2
Min. Lot Size	7,000 s.f.	7,000 s.f.
Min. Lot Width at BSL	50 feet	50 feet
Max. Lot Coverage	60%	60%
Max. Height	35 feet	35 feet
Addnl. Height	see 27-404 D. of the UDO	see 27-404 D. of the UDO

Setbacks		
Front	25 feet	25 feet
Side	10.0 feet	10.0 feet
Street side/corner	10 feet	10 feet
Rear	10 feet	10 feet
Side/Rear Adjacent to	30 feet	30 feet
RS dist/development		
Minimum Street Frontage	50 feet	50 feet
Minimum Bldg Separation	10 feet	10 feet

PZD Landscaping

Landscaping design standards for future development will comply with the requirements of UDO Section 27-602-3, Landscaping and Screening

C-2 Landscaping

Landscaping design standards are required to comply with the requirements of UDO Section 27-602-3, Landscaping and Screening

PZD and C-2 Exterior Lighting

Exterior building and site lighting shall comply with the UDO

- 3i. A chart comparing the proposed land uses and the zoning district(s) where such land uses are permitted.**

See Chart 1 - PZD Uses vs. Current Zone Land Uses.

- 3j. A chart articulating how the project exceeds the UDO requirements (ex. Increased landscaping, increased high quality materials on the façade, etc.).**

The project will exceed the UDO requirements as follows:

1. Land Uses

The land uses allowed by the PZD will be limited in comparison with those allowed by comparable zoning designations which allow the proposed uses. See Chart 1.

2. Signage

Signage allowed by the PZD will be limited in comparison with those allowed by comparable uses in that no free standing signs will be permitted.

3. Exterior Building Facade

All exterior facade materials will exceed the requirements of High Quality Materials as listed under section 27-602-4 C.2 of the UDO by increasing the requirement from 51 percent coverage to 100 percent coverage.

- 3k. Statement of how the development will relate to the existing and surrounding properties in terms of land use, traffic, appearance, and signage.**

Land Use

The PZD will include an area of approximately 0.56 acres located at the northeast quadrant of the intersection of Jenny Lind Road and Dallas Street.

The property to the east is zoned C-2. This property is developed as an apartment complex. The property to the north is zoned C-2. This property is developed as a chiropractic clinic.

The property to the south is zoned RSD-2. This property is developed as Ramsey Junior High School.

The property to the west is zoned C-2. This property is developed as strip mall.

The property to the southwest is zoned C-5. This property is developed as a Family Dollar Store.

Proposed PZD uses will allow uses allowed by the current C-2 zoning with several exclusions. The PZD will also allow a variety of uses related to pet and animal services. (see Chart 1).

Traffic

Access to the site will be from Jenny Lind Road and Dallas Street. Both streets are classified as Residential Collector Streets.

Traffic generated by the proposed project will be minimal throughout the day.

Appearance

All future PZD improvements will be constructed to meet or exceed the requirements of the UDO which are set up to minimize adverse effects of the appearance of new developments on surrounding properties.

Signage

The existing pole sign will be removed.. Any future signage will be limited to monument signs with a maximum surface area of 50 square feet. Facade signage will be allowed. Future signage under these restrictions should have no adverse impact on surrounding properties.

3l. A traffic study when required by the Engineering Department (consult with staff prior to submittal).

The City Engineering Department has indicated that a traffic study will not be required.

3m. Statement of availability of water and sewer (state size of lines)

A 6 inch waterline runs along the south side of the project on the north side of Dallas Street. A 6 inch waterline runs along the west side of the project on the west side of Jenny Lind Road.. An 8 inch sanitary sewer line runs along the south side of the project in the south edge of Dallas Street. An 8 inch sanitary sewer line runs along the west side of the project on the east side of Jenny Lind Road.

All above listed lines are shown on the Property Survey drawing.

CHART 1 - PZD USES VERSES CURRENT ZONE LAND USES (C-2)

Fort Smith Use Matrix

Districts	Residence or Accommodation															
	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T
P = Permitted Use, C = Conditional Use, A = Accessory Use Size or density restrictions for any use may be noted in the district																
Private Household																
Single Family building																
Accessory residential dwelling unit																
Multifamily development																
Community residential facility																
Group home, neighborhood																
Opportunity																
Assisted living																
Retirement housing																
Hotels, Motels, or other Accommodations																
Bed and breakfast inn																
Dormitory, sorority, fraternity																
Rooming or boarding house																
General Sales or Services																
Automobile Sales or Service																
Auto detailing service																
Auto glass, muffler, and seatcover shop																
Auto parts and accessories sales																
Car wash self-service																
Heavy Consumer Goods Sales or Service																
Clothing and personal items (repair)																
Computer and software shop																
Electronics and appliances (new)																
Furniture or home furnishings (new)																
Hardware store (neighborhood)																
Lawn and garden supplies																
Locksmith																
Durable Consumer Goods Sales or Service																
Bicycle sales and service																
Bicycle sales and service (no outside storage)																
Bookstore																
Bridal shop																
Cameras, photographic supplies and services																
Clothing, jewelry, luggage, shoes, accessories																
Gift shop																
Sewing machine store (sales & service)																
Sporting goods, toys, & musical instruments																
Thrift store																
Consumer Goods, Other																
Antique shop																
Art dealers, art studio, galleries, supplies																
Arts and craft shop																
Floor shop																
Hobby shop																
Tobacco shop																

CHART 1 - PZD USES VERSUS CURRENT ZONE LAND USES (C-2)

Fort Smith Use Matrix

Districts	P = Permitted Use, C = Conditional Use, A = Accessory Use Size or density restrictions for any use may be noted in the district															
	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T
Grocery, Food, Beverage, Daily																
Bakery or confectionery shop																
Beer, wine and liquor store (with drive-through)																
Beer, wine and liquor store (without drive-through)																
Convenience store (with gasoline sales)																
Farmer's market																
Fruit and vegetable store																
Grocery store or supermarket																
Neighborhood store																
Health and Personal Care																
Cosmetics, beauty supplies, and perfume stores																
Medical appliances services																
Optical shop																
Pharmacy or drug store																
Finance and Insurance																
Auto insurance claims office																
Automatic teller machine																
Bank, credit union, or savings institution																
Credit and finance establishment																
Fund, trust, or other financial establishment																
Insurance office																
Investment banking, securities, and brokerages																
Rental and Leasing																
Consumer rental center																
Video, music, software																
Business, Professional, Scientific, and Technical Services																
Professional Services																
Abstract services																
Accounting, tax, bookkeeping, payroll																
Advertising and media services																
Architectural, engineering																
Consulting services																
Graphic, industrial, interior design																
Legal services																
Offices, corporate																
Offices, general																
Property management services (office only)																
Real estate agency																
Travel arrangement and reservation services																
Administrative Services																
Business support services																
Collection agency																
Facilities support services																
Office and administrative services																

CHART 1 - PZD USES VERSUS CURRENT ZONE LAND USES (C-2)

Fort Smith Use Matrix

Districts	Size or density restrictions for any use may be noted in the district															
	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T
P = Permitted Use, C = Conditional Use, A = Accessory Use																
Size or density restrictions for any use may be noted in the district																
Food Services																
Bar or tavern																
Catering service																
Microbrewery/microwinery/microdistillery																
Restaurant																
Restaurant (with drive-through services)																
Restaurant (with outdoor dining)																
Specialty Manufacturing																
Personal Services																
Barber shop/salon/spa/massage services																
Laundry and cleaning facilities (self-service)																
Laundry, cleaner																
Laundry, cleaner (drop-off station)																
Photocopy shop																
Print shop																
Shoe repair shop																
Tailor shop																
Tanning salons																
Weight loss centers																
Pet and animal services																
Animal and pet services (indoor)																
Animal shelter (indoor only)																
Pet cemetery																
Pet shop																
Pet supply store																
Veterinary clinic (no outdoor kennels)																
Veterinary clinic (with outdoor kennels)																
Automobile Parking Facilities																
Parking lot (off site) (See Section 27-601-11)																
Transportation, Communication, Information and Utilities																
Transportation Services																
Courier and messenger services																
Mail services																
Communications and Information																
Commercial communication towers																
Data processing facility																
Motion pictures and sound recording studios																
Printing commercial/industrial																
Telecommunications and broadcasting studios																

CHART 1 - PZD USES VERSES CURRENT ZONE LAND USES (C-2)

Fort Smith Use Matrix

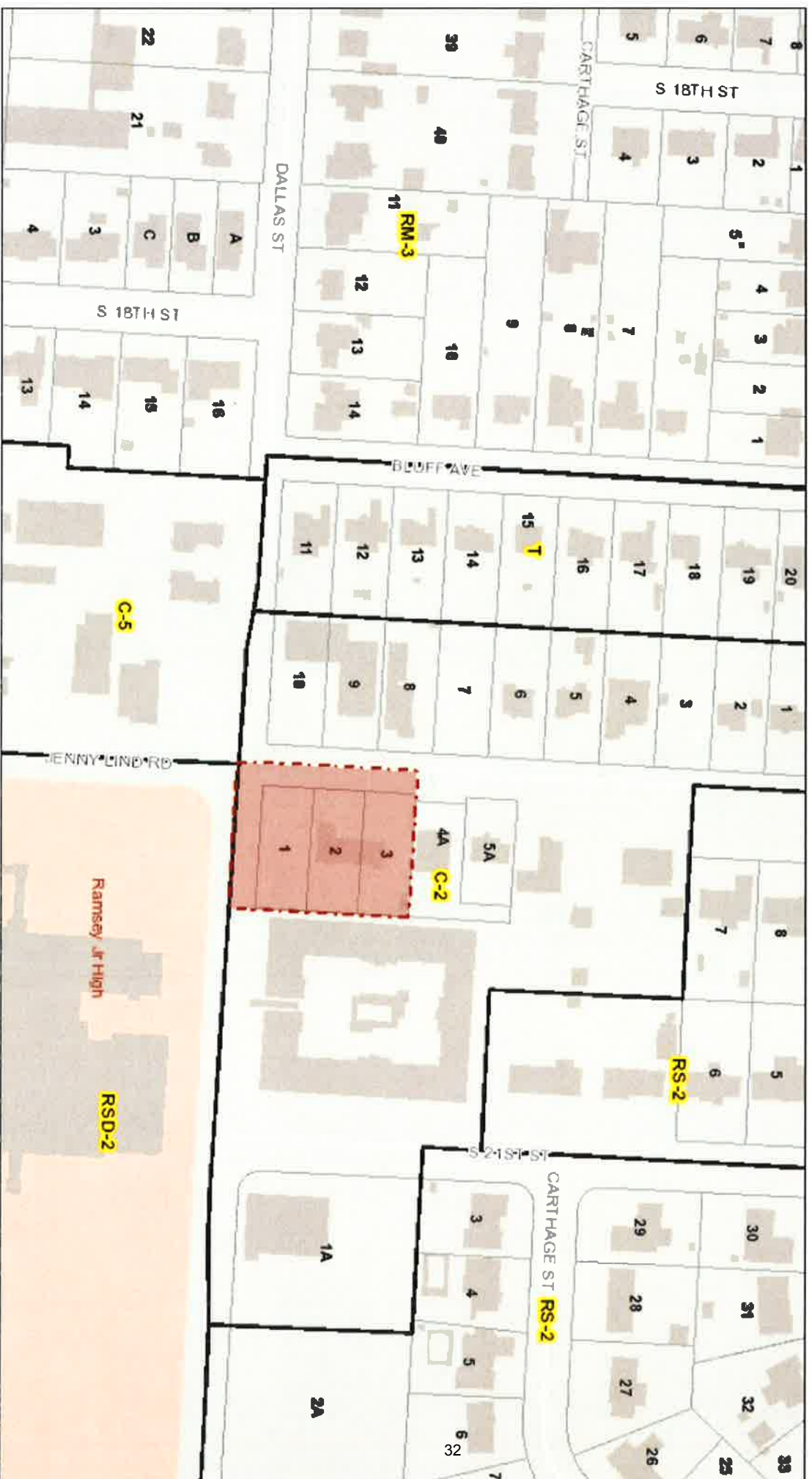
Fort Collins Use Matrix																											
Districts		RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	PZD
P = Permitted Use, C = Conditional Use, A = Accessory Use Size or density restrictions for any use may be noted in the district																											
Utilities and Utility Services																											
Amateur radio transmitting towers																											
Radio, television, and microwave transmitting towers																											
Recycling collection station																											
Utility substation																											
Arts, Entertainment, and Recreation																											
Carnival or circus (temporary with permit)																											
Museum																											
Amusement, Sports, or Recreation Establishment																											
Amusement center (indoor)																											
Convention/Event center																											
Country club																											
Bowling alley																											
Community recreation center																											
Golf course																											
Health club																											
Fitness studio																											
Pool hall																											
Swimming pool																											
Natural and Other Recreational Parks																											
Park or playground (public and nonpublic)																											
Education, Public Administration, Health Care and Other Institutions																											
Educational Services																											
College, university, or seminary																											
Fine art and performance education																											
Library or public arts complex																											
Nursery school																											
Preschool																											
Primary and secondary school																											
School, business professional																											
Public Administration - Government																											
Government office																											
Public Safety																											
Emergency response station																											
Fire and rescue station																											
Police station																											
Police substation (no incarceration)																											
Health and Human Services																											
Diagnostic laboratory testing facility																											
Doctor office and clinic																											
Hospice residential care facility																											
Hospital																											
Mental health hospital																											
Nursing home																											
Substance abuse treatment facility																											

CHART 1 - PZD USES VERSUS CURRENT ZONE LAND USES (C-2)

Fort Smith Use Matrix

City of Chicago Zoning Ordinance																										
	Districts																									
P = Permitted Use, C = Conditional Use, A = Accessory Use Size or density restrictions for any use may be noted in the district	RE3	RE1	RS-1	RS-2	RS-3	RS-4	RS-5	RSD-2	RSD-3	RSD-4	RM-2	RM-3	RM-4	RMD	RH	T	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	PZD
			R-1	R-2	R-3	R-4	R-6	DP-2	DP-3	DP-4	MF-2	MF-3	MF-4	R-5	H	T1,2,3	C-1	C-2	C-3	C-4	C-5	C-6	I-1	I-2	I-3	
Child and youth services (office)																	P	P	P	P	P	P				
Day care center															C		C	C	C	C	C	C	C	C		
Senior citizen center												C	C	C	C	C	C	C	C	C	C	C	C	P		
Religious institutions																										
Church, synagogue, temple, mosque	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	A	
Rectory, convent, monastery												C	C	C	C	C	A	A	A	A	A	A	A			
Note: educational/hospital facilities owned or run by religious institutions are classified by use not ownership																										
Wedding chapel																	P	P	P	P	P	P				
Cemetery, mausoleum, crematorium, funeral home, & mortuary																		C	C	C	C	C				
Monument (sales)																		P	P	P	P	P				
Associations, Nonprofit Organizations																		C	C	C	C	C				
Lodge or fraternal organization																										
Construction-Related Businesses																			C	C	C	C	P	P		
Contractor's office																	P	P	P	P	P	P	P	P	P	

Rezoning #16-6-18: From Commercial Light (C-2) to Planned Zoning District (PZD)
3123 Jenny Lind Road



Rezoning #16-6-18

3123 Jenny Lind Road

Single Family Residences

Office

Retail

Dollar Store

Veterinarian Office

Retail

Single Family Residences

Family Chiropractic Clinic

Apartments

Church

Legend

Ramsey Jr. High School

Memo

To: City Planning Commission

From: Planning Staff

Date: May 25, 2018

Re: Rezoning #15-6-18 - A request by Ron Brixey, agent for Norris & Kendrick, LLC, for Planning Commission consideration of a zone request from Not Zoned to Commercial Light (C-2) by classification located at 7601 Massard Road

PROPOSED ZONING

The zoning and development plan will allow for a medical office.

LOT LOCATION AND SIZE

The subject property is on the east side of Massard Road between McClure Drive and Wells Lake Road. The tract contains an area of 1.17 acres with approximately 227 feet of street frontage along Massard Road and a proposed 123 feet of street frontage along the proposed future side street.

REQUESTED ZONING

The requested zoning on this tract is Commercial Light (C-2).
Characteristics of this zone are as follows:

Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 10 feet	
Side Yard Setback – 10 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

SURROUNDING ZONING AND LAND USE

The area to the north is a Planned Zoning District for the Fuentes retail development but is undeveloped at this time.

The areas to south and east are not zoned and are undeveloped.

The area to the west is zoned Residential Single Family Medium/High Density (RS-3) and is undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Massard Road as Boulevard.

MASTER LAND USE PLAN COMPLIANCE

The Chaffee Crossing Master Land Use Plan classifies the site as Mixed Use: Residential/Commercial Office. This classification is intended to create walkable neighborhoods, create mixed use village using traditional neighborhood development, and have flexibility in standards to accommodate mixed use development rather than suburban style patterns.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Thursday, May 31st, 2018 at 12:00 P.M. at Brixey Engineering Offices at 5223 Hwy 45. No surrounding property owners attended the meeting.

STAFF COMMENTS AND RECOMMENDATIONS

This rezoning would be on the northern edge of a larger tract of land with the same owner. They are requesting zoning on this 1.17 acre tract at this time as this is a multiphase development. Staff recommends approval based on the submitted development plan.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

Part of Government Lot 1 and Part of Government Lot 2 of the Southwest Quarter (SW/4) of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas – Complete description attached.

2. Address of property: 7601 Massard Road
3. The above described property is now zoned: Not Zoned
4. Application is hereby made to change the zoning classification of the above described property to C-2 (Commercial Light) by classification,
(Extension or classification)
5. Why is the zoning change requested?

Request is made in order to establish a Zone classification to allow development of the property for uses allowed by the C-2 classification

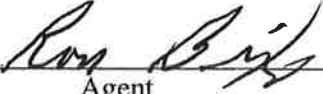
6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Ron Brixey
Owner or Agent Name
(please print)

Owner

5223 E. Highway 45, Fort Smith AR 72916
Owner or Agent Mailing Address

or

Agent

479-646-6394
Owner or Agent Phone Number

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

Part of Government Lot 1 and Part of Government Lot 2 of the Southwest Quarter (SW/4) of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas – Complete description attached

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

All requirements of the FCRA Design Guidelines


Signature

(If no restrictive covenants exist, indicate "none".)*

LIST OF OWNERS OF ALL PROPERTY WITHIN 300 FEET

(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

	<u>NAME</u>	<u>ADDRESS</u>
1.	<u>Carrington Creek Holdings, LLC</u>	<u>P.O. Box 10176, Fort Smith, Ar. 72916</u>
2.	<u>Alejandro Fuentes</u>	<u>8909 Rogers Ave., Fort Smith, Ar. 72903</u>
3.	<u>Fort Chaffee Redevelopment Trust</u>	<u>7020 Taylor Street, Fort Smith, Ar. 72916</u>
4.	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>
7.	<u> </u>	<u> </u>
8.	<u> </u>	<u> </u>
9.	<u> </u>	<u> </u>
10.	<u> </u>	<u> </u>
11.	<u> </u>	<u> </u>
12.	<u> </u>	<u> </u>
13.	<u> </u>	<u> </u>
14.	<u> </u>	<u> </u>
15.	<u> </u>	<u> </u>
16.	<u> </u>	<u> </u>
17.	<u> </u>	<u> </u>

LIST OF OWNERS OF ALL PROPERTY TO BE REZONED

List the names and addresses of all owners of property included within the area requested by this petition to be rezoned.


<u>NAME</u>	<u>ADDRESS</u>
1. <u>Norris & Kindrick, LLC</u>	<u>P.O. Box 10386, Fort Smith, Ar. 72917</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Ron Brixey to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

<u>NAMES OF ALL OWNERS.</u>	<u>SIGNATURE OF ALL OWNERS.</u>
1. <u>Norris & Kindrick, LLC</u> Brooks Norris, Managing Partner	
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

This form is necessary only when the person representing this request does not own all property.

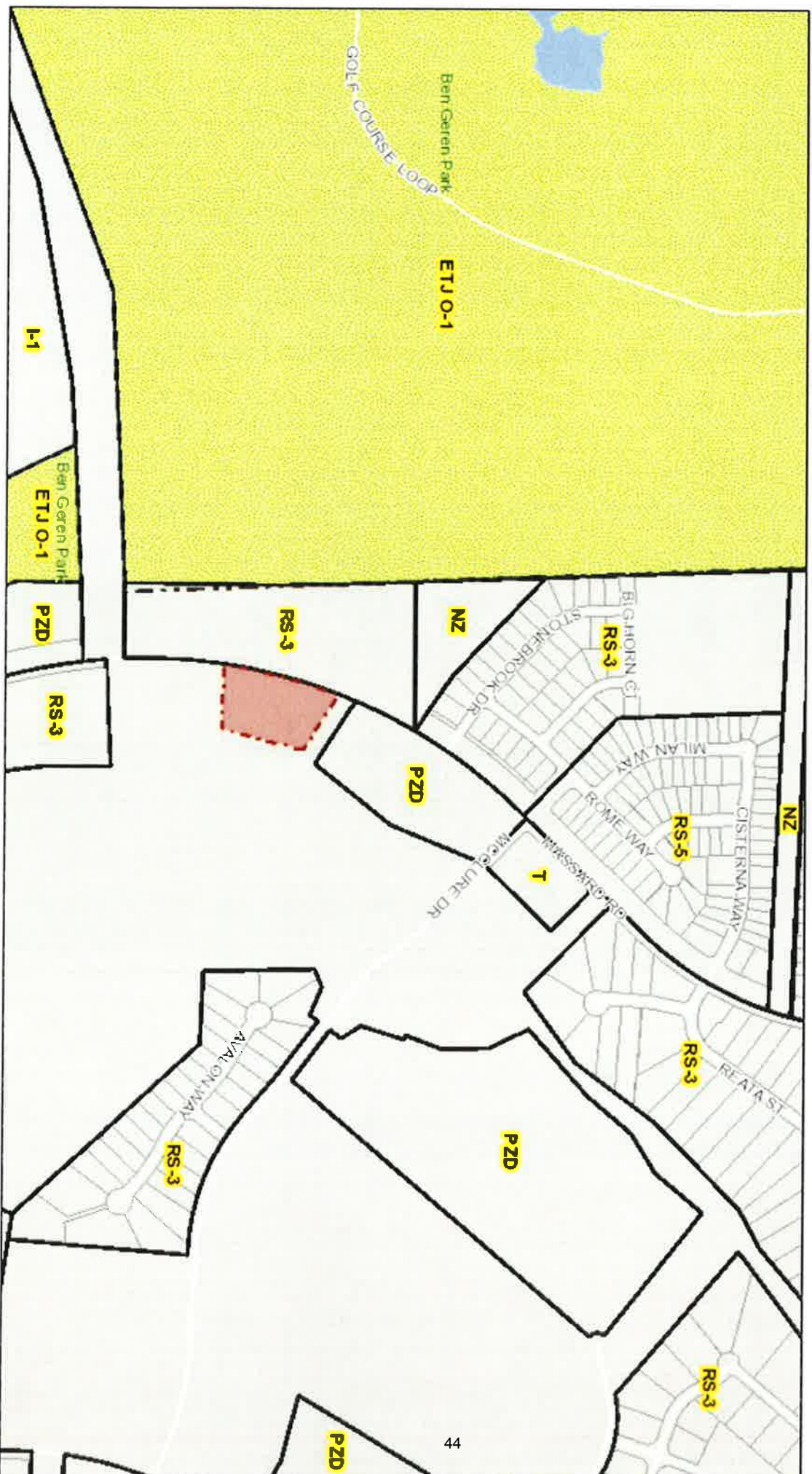
BOUNDARY DESCRIPTION

Part of Government Lot 1 and Part of Government Lot 2 of the Southwest Quarter (SW/4) of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas, being more particularly described as follows:

Commencing at the Southeast Corner of said Government Lot 1 of the SW/4; thence N 87°14'55" W, 940.28 feet along the South line of said Government Lot 1; thence N 02°35'33" E, 279.36 feet; thence N 65°22'01" E, 79.68 feet; thence N 57°39'00" W, 176.30 feet; thence N 57°39'22" W, 29.03 feet to the Point of Beginning; thence S 29°33'06" W, 157.47 feet; thence 48.52 feet along the Arc of a curve to the left having a Chord Bearing N 88°15'00" W, 46.64 feet and a Radius of 50.00 feet; thence 36.14 feet along the Arc of a curve to the right having a Chord Bearing S 84°39'11" W, 35.36 feet and a Radius of 50.00 feet; thence N 74°38'32" W, 123.62 feet; thence 39.79 feet along the Arc of a curve to the right having a Chord Bearing N 29°02'26" W, 35.72 feet and a Radius of 25.00 feet to the Easterly right of way line of Massard Road; thence 227.63 feet along the Arc of a curve to the right in said Easterly right of way line, said curve having a Chord Bearing N 19°16'13" E, 227.54 feet and a Radius of 2406.73 feet; thence leaving said right of way line S 57°39'22" E, 261.51 feet to the point of beginning, containing 1.17 Acres more or less.

Based on Mickle Wagner Coleman Job 12001 Dated July 2015 and field verified.

Rezoning #15-6-18: From Not Zoned to Commercial Light (C-2)
7601 Massard Road



Rezoning #15-6-18 & Development Plan #8-6-18

7601 Massard Road



Legend

Memo

To: City Planning Commission

From: Planning Staff

Date: May 24, 2018

Re: Development Plan Review #15-6-18 - A request by Ron Brixey, agent for Norris & Kendrick, LLC, for Planning Commission consideration of development plan approval of a medical office located at 7601 Massard Road

PROPOSED DEVELOPMENT PLAN

The zoning and development plan will allow for a medical office.

LOT LOCATION AND SIZE

The subject property is on the east side of Massard Road between McClure Drive and Wells Lake Road. The tract contains an area of 1.17 acres with approximately 227 feet of street frontage along Massard Road and a proposed 123 feet of street frontage along the proposed future side street.

PROPOSED ZONING

The requested zoning on this tract is Commercial Light (C-2).
Characteristics of this zone are as follows:

Purpose:

To provide office, service, and retail activities that are located within buffer areas near the edge of residential areas but which serve an area larger than adjacent neighborhoods. The C-2 zoning district is intended to accommodate well designed development sites and shall provide excellent transportation access, make the most efficient use of existing infrastructure, and provide for orderly buffers and transitions between Commercial and Residential land uses. C-2 zoning is appropriate in the Commercial Neighborhood, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-2 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, auto detailing, lawn and garden supplies, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, pet shop, mail services, commercial communication towers, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 7,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 30,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size – New District (By Classification) – 42,000 square feet	
Minimum Parcel/Lot Size – Existing District (By Extension) – 7,000 square feet (one lot)	
Minimum Lot Width – 50 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 10 feet	
Side Yard Setback – 10 feet	
Rear Yard Setback - 10 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

SURROUNDING ZONING AND LAND USE

The area to the north is a Planned Zoning District for the Fuentes retail development but is undeveloped at this time.

The areas to south and east are not zoned and are undeveloped.

The area to the west is zoned Residential Single Family Medium/High Density (RS-3) and is undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Massard Road as Boulevard.

SITE DESIGN FEATURES

Ingress/egress/traffic circulation – The clinic proposes one shared driveway to the north of the development with access to Massard Road. The development also indicates a proposed future street and driveway access to the future street.

Easement/utilities – The developer must agree to meet all franchise and city utility easement requirements. Additionally, the development must comply with the City's Subdivision Design and Improvement Standards and the Standard Specification for Public Works Construction.

Right-of-way dedication – The property will require replatting and R.O.W. dedication will take place at that time.

Landscaping – The project shows perimeter landscaping along with interior and building landscaping. The applicant has added a comment that the landscaping used for screening shall create a seamless row. More shrubs will likely be needed to comply with the parking lot screening requirements or another method of parking lot screening will need to be utilized.

Screening – The site shows a screened dumpster. No HVAC screening details are shown with this development plan, but the units shall be completely screened in compliance with the UDO and the Chaffee Crossing Design Standards (CCDG).

Parking – The UDO requires 32 parking spaces. The development plan has provided 36 parking spaces thus exceeding the UDO requirements.

Signage – No signage information is proposed. The plans show that signage will be permitted separately and must comply with the UDO and CCDG.

Lighting – No site lighting information is shown; however, a note on the plans states that all site exterior lighting will comply with the UDO Section 27-602-5.

Architectural features – The elevations show a pitched roof with shingles. The elevations also indicate that a masonry veneer will be at the base of the office with cementitious siding. The architectural features shall comply with the UDO and CCDG.

Height and Area – The development plan shows the building height to be 20 feet and one story. The gross floor area shows to be approximately 6,237 s.f. The plan also indicates a future expansion of 1,675 s.f. for a total of 7,912 s.f.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Thursday, May 31st, 2018, at 12:00 P.M. at Brixey Engineering Offices at 5223 Hwy 45. No surrounding property owners attended the meeting.

STAFF COMMENTS AND RECOMMENDATIONS

Staff recommends approval of the development plan contingent upon the following:

1. Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
2. The development shall show adequate parking lot screening details in accordance with Section 27-602-3C of the UDO and the Chaffee Crossing Design Guidelines.
3. The development plan shall provide HVAC screening details in accordance with Section 27-602-4C-4 of the UDO and the Chaffee Crossing Design Guidelines.
4. The future expansion shall comply with the UDO design guidelines in section 27-602-4C-2 of the UDO as well as the Chaffee Crossing Design Guidelines.
5. Site lighting shall comply with Section 27-602-5 of the UDO.

DEVELOPMENT PLAN REVIEW APPLICATION

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)
Part of Government Lot 1 and Part of Government Lot 2 of the Southwest Quarter (SW/4) of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Complete description attached.

2. Address of property: 7601 Massard Road

3. The above described property is now zoned: Not Zoned

4. Does the development plan include a companion rezoning request?

Yes X No

- If yes, please specify the companion application submitted: **Planned Rezoning**
- Conventional Rezoning
- Planned Rezoning
- Conditional Use
- Master Land Use Plan Amendment
- Variance

6. If applicable, a companion rezoning application is proposed to change the zoning classification of the above described property to:

C-2 (Commercial Light) by Classification
(Zoning Classification) (Extension or classification)

7. Existing zoning, structures and driveways on surrounding properties within 300 feet of subject property:

Zoning to east and south – Not Zoned, Zoning to north PZD, zoning to west – RS-3

See Site Plan for additional details

8. Total acreage of property 1.17 acres

Signed:

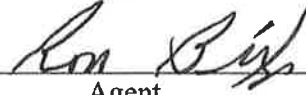
Ron Brixey

Owner or Agent Name
(please print)

Owner

5223 E. Hwy. 45, Fort Smith, Ar. 72916
Owner or Agent Mailing Address

or



Agent

479-646-6394
Owner or Agent Phone Number

LIST OF OWNERS OF ALL PROPERTY WITHIN 300 FEET

(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

	<u>NAME</u>	<u>ADDRESS</u>
1.	<u>Carrington Creek Holdings, LLC</u>	<u>P.O. Box 10176, Fort Smith, Ar. 72916</u>
2.	<u>Alejandro Fuentes</u>	<u>8909 Rogers Ave., Fort Smith, Ar. 72903</u>
3.	<u>Fort Chaffee Redevelopment Trust</u>	<u>7020 Taylor Street, Fort Smith, Ar. 72916</u>
4.	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>
7.	<u> </u>	<u> </u>
8.	<u> </u>	<u> </u>
9.	<u> </u>	<u> </u>
10.	<u> </u>	<u> </u>
11.	<u> </u>	<u> </u>
12.	<u> </u>	<u> </u>
13.	<u> </u>	<u> </u>
14.	<u> </u>	<u> </u>
15.	<u> </u>	<u> </u>
16.	<u> </u>	<u> </u>
17.	<u> </u>	<u> </u>

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

Part of Government Lot 1 and Part of Government Lot 2 of the Southwest Quarter (SW/4) of Fractional Section 6, Township 7 North, Range 31 West, Fort Smith, Sebastian County, Arkansas. Complete description attached.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

All requirements of the FCRA Design Guidelines


Signature

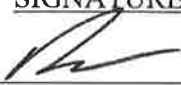
(* If no restrictive covenants exist, indicate "none".)

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Ron Brixey to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

<u>NAMES OF ALL OWNERS.</u>	<u>SIGNATURE OF ALL OWNERS.</u>
1. <u>Norris & Kindrick, LLC</u> Brooks Norris, Managing Partner	
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____

This form is necessary only when the person representing this request does not own all property.

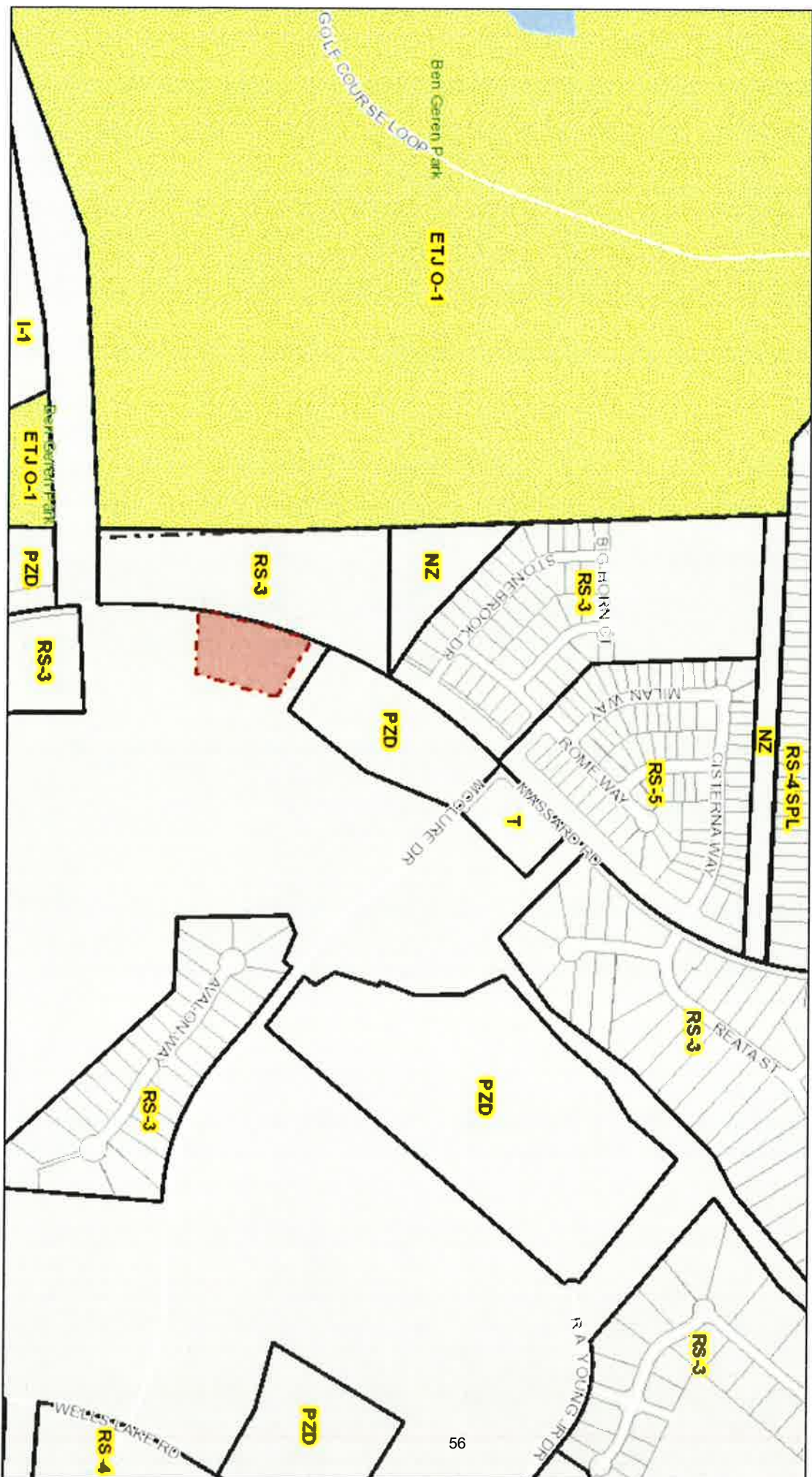
BOUNDARY DESCRIPTION

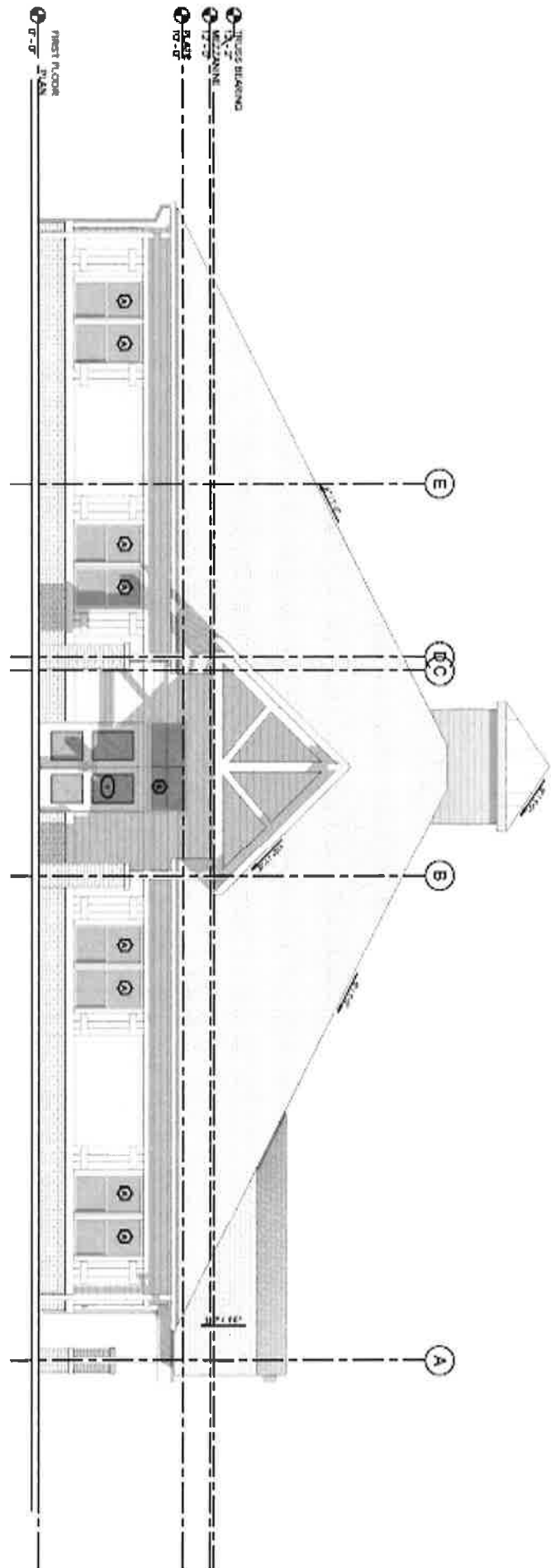
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Commencing at the Southeast Corner of said Government Lot 1 of the SW/4; thence N 87°14'55" W, 940.28 feet along the South line of said Government Lot 1; thence N 02°35'33" E, 279.36 feet; thence N 65°22'01" E, 79.68 feet; thence N 57°39'00" W, 176.30 feet; thence N 57°39'22" W, 29.03 feet to the Point of Beginning; thence S 29°33'06" W, 157.47 feet; thence 48.52 feet along the Arc of a curve to the left having a Chord Bearing N 88°15'00" W, 46.64 feet and a Radius of 50.00 feet; thence 36.14 feet along the Arc of a curve to the right having a Chord Bearing S 84°39'11" W, 35.36 feet and a Radius of 50.00 feet; thence N 74°38'32" W, 123.62 feet; thence 39.79 feet along the Arc of a curve to the right having a Chord Bearing N 29°02'26" W, 35.72 feet and a Radius of 25.00 feet to the Easterly right of way line of Massard Road; thence 227.63 feet along the Arc of a curve to the right in said Easterly right of way line, said curve having a Chord Bearing N 19°16'13" E, 227.54 feet and a Radius of 2406.73 feet; thence leaving said right of way line S 57°39'22" E, 261.51 feet to the point of beginning, containing 1.17 Acres more or less.

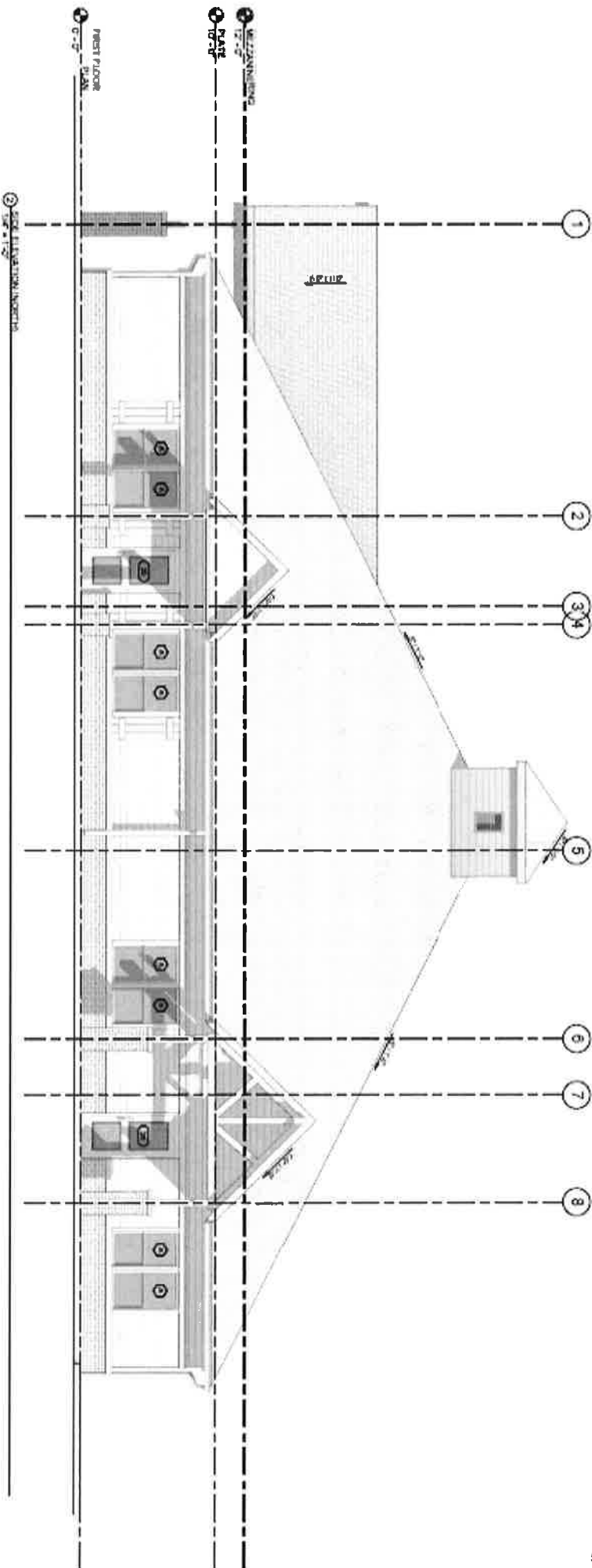
Based on Mickie Wagner Coleman Job 12001 Dated July 2015 and field verified.

Development Plan #8-6-18: Medical Clinic
7601 Massard Road

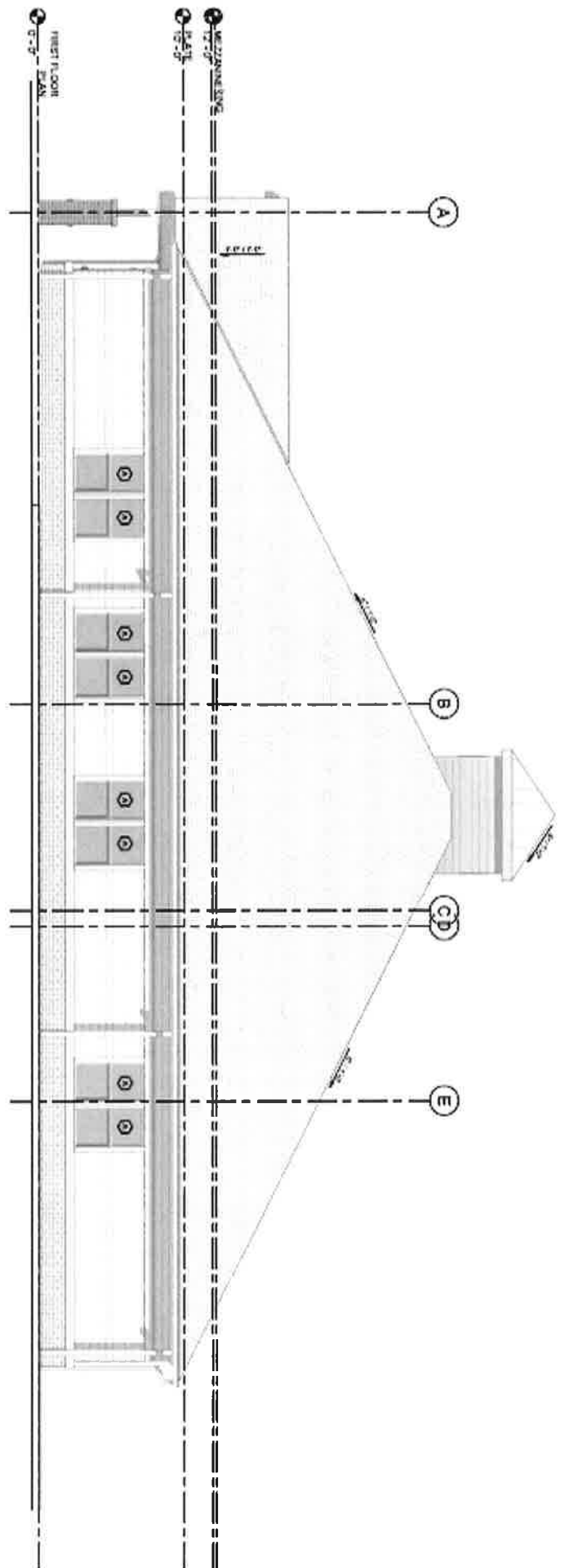




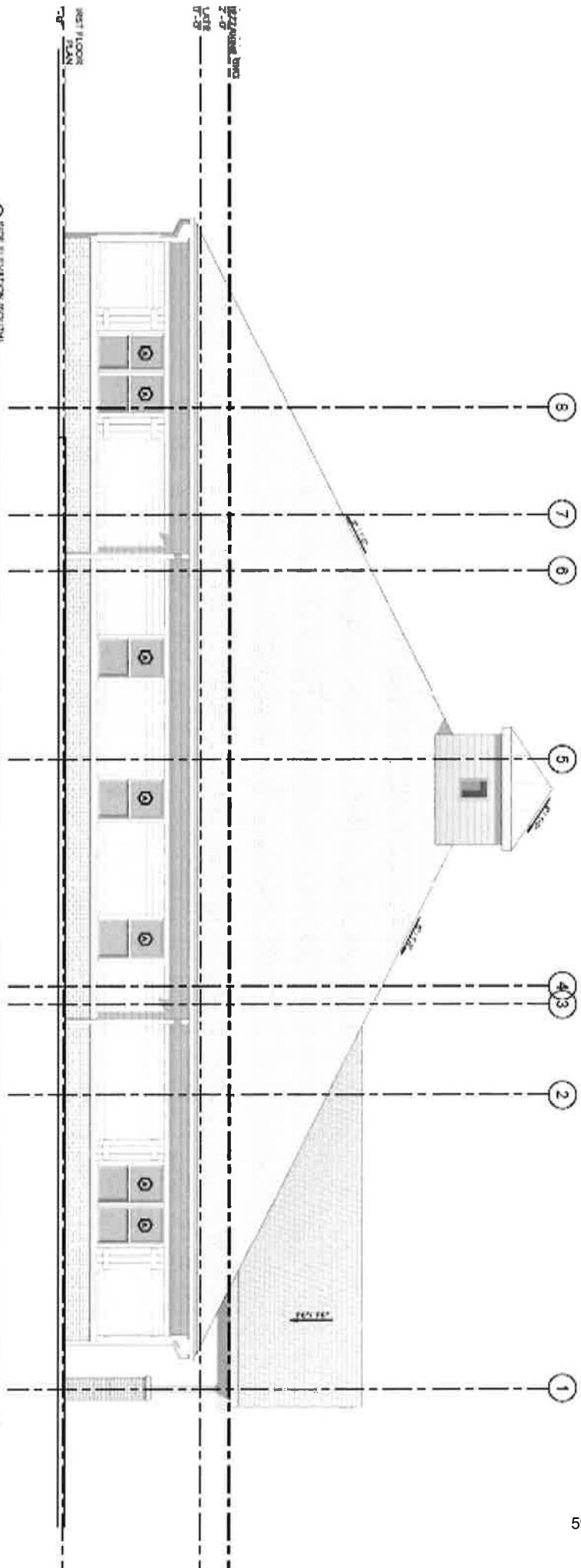
1 FRONT ELEVATION
1/4" = 1'-0"



2 SIDE ELEVATION NORTH
1/4" = 1'-0"



① REAR ELEVATION
1st FLOOR PLAN



② SIDE ELEVATION SOUTH
1st FLOOR PLAN

Memo

To: City Planning Commission

From: Planning Staff

Date: June 8, 2018

Re: Variance #22-6-18 - A request by Ricky Hill, agent for Stephen & Mary Young and Aaron and Brook Borengasser, for planning commission consideration of a subdivision variance request from the UDO, Section 27-504-3(A)(B) private access easement at 14 & 18 Free Ferry North

REQUESTED VARIANCE

The request is to allow a 50' wide private vehicular access easement on the property for ingress and egress for a proposed new lot for the construction of a single family house.

LOT LOCATION AND SIZE

The subject property is on the north end of the cul-de-sac. The tract contains an area of 5.53 acres with approximately 50 feet of street frontage along Free Ferry North.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2). Characteristics of this zone are as follows:

Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Residential Estate One (RE-1) and are undeveloped.

The areas to the east, south and west are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Free Ferry North as a Local Road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as RESIDENTIAL DETACHED. This classification is to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

APPLICANT HARDSHIP

The new lot will not have street access to the property. A private access easement would allow both pieces of property to use the same 50 feet access to the properties.

NEIGHBORHOOD MEETING

The applicant submitted a request to the Planning Department to waive the neighborhood meeting and the request was approved. UDO Section 27-516-5 allows the Director to waive meetings when there are few or no neighbors within 300 of the proposed variance, the proposed variance will allow development in compliance with the surrounding area, and the request represents a minor change to the development requirements that will have little or no effect on the surrounding properties.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-516-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

The proposed private access easements will facilitate the platting of a new 1.11 acre lot on the southeast corner of the existing Free Ferry North, Tract A for the construction of a single family house.

UDO Section 27-504-3(A) (B) allows private vehicular access easements as ingress and egress for lots only in multifamily, commercial and industrial subdivisions or developments. The easement must be a minimum of 24' wide and no longer than 500' and comply with public street standards. Because Free Ferry North is a single family development, a variance is required from these UDO sections.

The proposed access easement is 50' wide and is approximately 200' long and includes an existing concrete drive that varies in width from 24' to 10'.

If the planning commission is inclined to approve the subdivision variance, staff recommends approval of the companion variance #21-6-18 to allow no street frontage for the proposed new lot at 14 Free Ferry North.

APPLICATION FOR VARIANCE FROM CITY LAND DEVELOPMENT REGULATIONS

Owner or Agent Name (*please print*): Ricky Hill, P.L.S

Street Address or Location: P O Box 640, Alma, AR 72921

Legal Description of Property (attach separate sheet if necessary): _____

Tract A Free Ferry North, an addition to the City of Fort Smith, Sebastian

County, Arkansas being 5.52 acres and subject to any easements of record.

Zone: RSD-2

Specific article and section of the Land Development Regulations which necessitates the variance request:

Article: _____ Section: 27-504-3 (A)(B)

The specific request is as follows:

To allow a private vehicular access easement.


Owner or Agent Mailing Address

479-632-3565
Owner or Agent Phone Number

Signed: _____

Owner

Or

Ricky Hill, P.L.S.
Agent

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 23-7 Subsection B) of the Fort Smith Subdivision and Land Development Regulations defines the criteria for granting a variance.

In considering such appeals, the Planning Commission may, where the literal enforcement of these regulations would result in unnecessary hardship, consider deviation from the strict application of any part of these regulations, where in its judgment the public convenience and welfare will be substantially served, the neighboring property will not be substantially injured, and a reasonable development and improvement of property will be permitted. In approving appeals or variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of these regulations. (Ord. No. 101-88, art. 3.5, 1-21-89; Ord. N. 6-91, subsection 1, 2-6-91)

1. Describe how the strict enforcement of the Development Regulations causes an undue hardship for your project:

There is no street access to the property and we cannot have a minimum of

24 feet wide.

2. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

A private access easement would allow both pieces of property to use the

same 50 feet access to the properties

LIST OF OWNERS OF ALL ADJACENT & CONTIGUOUS PROPERTY
(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property adjacent and contiguous to any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

<u>NAME</u>	<u>ADDRESS</u>
1. <u>Robert Powell & Janice Hobbs</u>	<u>200 Paddock Lane, Fort Smith, AR 72903</u>
2. <u>Marshall Thomas & Kathryn Neubauer</u>	<u>8 Free Ferry North, Fort Smith, AR 72903</u>
3. <u>Jerome Meyers Living Trust</u>	<u>7 Free Ferry North, Fort Smith, AR 72903</u>
4. <u>Jim Schilling</u>	<u>211 Free Ferry Landing, Fort Smith, AR 72903</u>
5. <u>Labeth Riggs Living Trust</u>	<u>212 Free Ferry Landing, Fort Smith, AR 72903</u>
6. <u>Thomas & Rebecca Ahlert Family Trust</u>	<u>311 Free Ferry Landing, Fort Smith, AR 72903</u>
F. <u>Nedil Aldarondo & Susan Arrand Antonini</u>	<u>319 Free Ferry Landing, Fort Smith, AR 72903</u>
G. <u>Willie Mae Jeffrey Living Trust</u>	<u>P O Box 11742, Fort Smith, AR 72902</u>
H. <u>Garrett Family Trust</u>	<u>P O Box 11742, Fort Smith, AR 72902</u>
I. _____	_____
J. _____	_____
K. _____	_____
L. _____	_____
M. _____	_____
N. _____	_____
O. _____	_____
P. _____	_____

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Ricky Hill P.L.S to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

1. Stephen Young
2. Mary Young
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

SIGNATURE OF ALL OWNERS.

Stephen Young
Mary Young

This form is necessary only when the person representing this request does not own all the property.



Member: ASPS-OSLS

Satterfield Land Surveyors, P. A.

P.O. Box 640 • Alma, Arkansas 72921

Office located at 1928 Highway 71 North

Alma 479-632-3565 • Fax 479-632-5002 • Fort Smith 479-648-3850

Springdale 479-751-7909 • Web Site: www.slsurveying.com



May 18, 2018

Fort Smith Planning Commission
City of Fort Smith, Arkansas

This letter is to state, that a Zoning Variance and Subdivision variance has been submitted for 18 North Free Ferry, Fort Smith, Arkansas. A planning Commission meeting will take place on Tuesday June 12, 2018 at 5:30 p.m. in the Rose Room of the Creekmore Park Community Center.

Respectfully,

Ricky Hill, PLS
Satterfield Land Surveyors
Agent for Stephen and Mary Young

Subdivision Variance #22-6-18: From UDO Section 27-504-3(A)(B) (private access easements)
14 & 18 Free Ferry North



Subdivision Variance #22-6-18 & Variance #21-6-18
14 & 18 Free Ferry North

Single Family Residences

Single Family Residences

Single Family Residences

Legend

Memo

To: City Planning Commission

From: Planning Staff

Date: May 24, 2018

Re: Variance #21-6-18 - A request by Ricky Hill, agent for Stephen & Mary Young and Aaron and Brook Borengasser, for Board of Zoning Adjustment consideration of a zoning variance request from the required minimum street frontage of 50' to 0' at 14 Free Ferry North

REQUESTED VARIANCE

Approval of the variance will allow the property owner to replat the property for the purpose of creating a new 1.11 acre lot at the southeast corner of the existing tract for the construction of a single-family residence.

LOT LOCATION AND SIZE

The subject property is on the north end of the cul-de-sac. The proposed new lot will contain 1.11 acres with no street frontage along Free Ferry North.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2). Characteristics of this zone are as follows:

Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

SURROUNDING ZONING AND LAND USE

The areas to the north are zoned Residential Estate One (RE-1) and are undeveloped.

The areas to the east, south and west are zoned Residential Single Family – Duplex Low/Medium Density (RSD-2) and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Free Ferry North as a Local Road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as RESIDENTIAL DETACHED. This classification is to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

APPLICANT HARDSHIP

Since the street is a cul-de-sac and not a thru street it limits the amount of frontage.

NEIGHBORHOOD MEETING

The applicant submitted a request to the Planning Department to waive the neighborhood meeting and the request was approved. UDO Section 27-337-5 allows the Director to waive meetings when there are few or no neighbors within 300 of the proposed variance, the proposed variance will allow development in compliance with the surrounding area, and the request represents a minor change to the development requirements that will have little or no effect on the surrounding properties.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

The existing lot, Free Ferry North Tract A, has 50' of street frontage with access from an existing cul-de-sac. The companion application proposes access to the new lot via a private access easement but the new lot will not have any street frontage.

If the Board of Zoning Adjustment is inclined to approve the variance, staff recommends approval of the companion subdivision variance #22-6-18 to allow a private access easement.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 18 Free Ferry North, Fort Smith, AR 72903, Existing or Proposed

Zoning Classification RSD-2, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

FROM

TO

<u> </u>	-	<u> </u>	Front Yard Setback or Minimum Distance from Right-of-Way
<u> </u>	-	<u> </u>	Exterior Side Yard Setback
<u> </u>	-	<u> </u>	Interior Side Yard Setback
<u> </u>	-	<u> </u>	Rear Yard Setback
<u> </u>	-	<u> </u>	Maximum Height of Structure
<u> </u>	-	<u> </u>	Minimum Distance Between Structures on the Same Lot
<u> </u>	-	<u> </u>	Minimum Lot Area (Square Feet)
<u> </u>	-	<u> </u>	Minimum Lot Frontage
<u> </u>	-	<u> </u>	Maximum Size of a Sign
<u>50'</u>	-	<u>0'</u>	Other: <u>Maximum Street Frontage</u>

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

Ricky Hill, P.L.S
Owner or Agent Name *(please print)*

479-632-3565
Owner or Agent Phone Number

P O Box 640, Alma, AR 72921
Owner or Agent Mailing Address

Owner
or

Agent

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by a prior owner?
<u> </u>	<u> X </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u> X </u>	<u> </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u> X </u>	Is the lot of an odd or unusual shape?
<u> </u>	<u> X </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> </u>	<u> X </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u> </u>	<u> X </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u> X </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u> X </u>	Is the lot developed with structures in violation of current zoning requirements?
<u> </u>	<u> X </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

The zoning code will not allow for a tract split with the amount of road frontage

There is ample property.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Since the street is a cul-de-sac and not a thru street it limits the amount of frontage.

LIST OF OWNERS OF ALL ADJACENT & CONTIGUOUS PROPERTY
(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property adjacent and contiguous to any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

<u>NAME</u>	<u>ADDRESS</u>
1. <u>Robert Powell & Janice Hobbs</u>	<u>200 Paddock Lane, Fort Smith, AR 72903</u>
2. <u>Marshall Thomas & Kathryn Neubauer</u>	<u>8 Free Ferry North, Fort Smith, AR 72903</u>
3. <u>Jerome Meyers Living Trust</u>	<u>7 Free Ferry North, Fort Smith, AR 72903</u>
4. <u>Jim Schilling</u>	<u>211 Free Ferry Landing, Fort Smith, AR 72903</u>
5. <u>Labeth Riggs Living Trust</u>	<u>212 Free Ferry Landing, Fort Smith, AR 72903</u>
6. <u>Thomas & Rebecca Ahlert Family Trust</u>	<u>311 Free Ferry Landing, Fort Smith, AR 72903</u>
F. <u>Nedil Aldarondo & Susan Arrand Antonini</u>	<u>319 Free Ferry Landing, Fort Smith, AR 72903</u>
G. <u>Willie Mae Jeffrey Living Trust</u>	<u>P O Box 11742, Fort Smith, AR 72902</u>
H. <u>Garrett Family Trust</u>	<u>P O Box 11742, Fort Smith, AR 72902</u>
I. _____	_____
J. _____	_____
K. _____	_____
L. _____	_____
M. _____	_____
N. _____	_____
O. _____	_____
P. _____	_____

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

Tract A of Free Ferry North, an Addition to the City of Fort Smith, Sebastian County, Arkansas being 5.52 acres and subject to any easements of record.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

None to my knowledge.

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Ricky Hill, P.L.S. to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

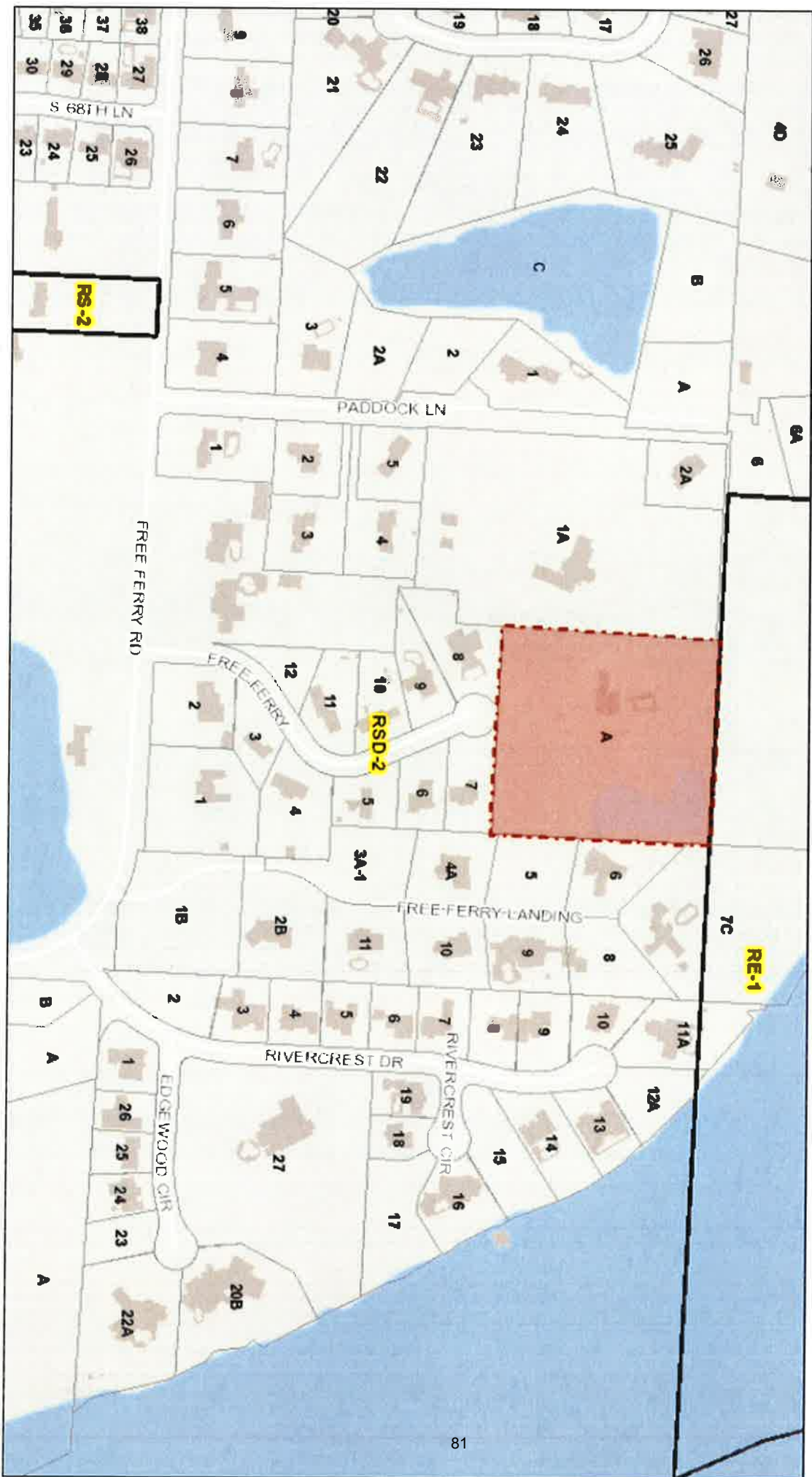
1. Stephen Young
2. Mary Young
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

SIGNATURE OF ALL OWNERS.

Stephen Young
Mary Young

This form is necessary only when the person representing this request does not own all the property.

Variance #21-6-18: From 50' to 0' maximum street frontage
14 Free Ferry North



50741212475.00

Chairman _____ Date _____
Secretary _____ Date _____

BY _____

STATE OF

On this day before me, the undersigned Notary Public within and for the County and State aforesaid, duly commissioned and acting, appeared in person(s) _____

known to me to be the person(s) whose name(s) are subscribed to the within instruments and acknowledge that he/she/they executed the same for the purposes therein contained.

20

Notary Public

My Commission Expires:

SUBDIVISION ACREAGE: 5.52 ACRES
(240,578.98 SQ.FT.)

SURVEYOR'S NOTE: This property does not lie within the 100-Year Flood Zone, according to the Flood Map for the City of Fort Smith, Arkansas. Community Flood No. 05131700400, dated March 2, 2012.

STATE ROAD 5002E. This survey was conducted under the supervision of Charles W. Safford, Jr., Surveyor General, State of North Carolina, at Raleigh, N.C. 0142, or Rossy Hill, No. 1443, Sottending Land Surveyors, P.A., Certificate of Authorization No. 716, Sottending Land Surveyors, P.A., 1-14129, 0-37-355 they 71 north, P.O. Box 640, Anna, AL 36921.

Yallerfells Land Services P.A., Copyright 2018

the book is copyright material and protected solely for the use of the author, it is not the property of the publisher. The publisher has no right to control the use of the book, and may not be used or distributed in any form without the author's consent. The publisher has no right to control the use of the book, and may not be used or distributed in any form without the author's consent. The publisher has no right to control the use of the book, and may not be used or distributed in any form without the author's consent.

SUBJECT: RUFFINANCE

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ARIZONA STATE POLICE

3074121.2475.00

LETTER, WILEY WARE LIVING TRUST (1/28 B)
GABRIEL FAMILY TRUST (1/28 B)
PO BOX 11748
FORT SMITH AR 723017
JENNY RD-1

UNPLATTED

PROPERTY DESCRIPTION

Tract A of Free Ferry North, an Addition to the City of Fort Smith Sebastian County, Arkansas being 3.52 acres and subject to any Easements of Record.

UNPLATTED

TRACT A-1
4.42 ACRES

LINPLATTED

[illegible]

PAULIN #11008-00001-00000000
POWER, ROBERT M #11008-00001-00000000
AND PNEUMOLIN
PNEUMOLIN #11008-00001-00000000

WORTHY MAN
NOT TO SCARE

1

SURVEYORS DISCLAIMER AND STATEMENT OF USE

**FREE FERRY STREET NORTH
50 R/W**

CONTACT

PHONE:

AARON & BROOK BORENGASER
7324 SOUTH Q STREET
FORTH SMITH, AR 72903
479-883-0616

SUBORDINATE DOCUMENT AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer or/and the seller on this plot. No one has the authority to use the date or legal description from this survey except those named or their agents and the survey is only certified to the data shown on this plot. This plot is being sold or conveyed to third parties without these named using or relying upon this survey and will be held harmless from these buyers, sellers, P.O.A. will not be responsible or have any liability to other persons or company who uses this plot without written authorization. After filing with State Surveyor's office, survey becomes public record.

5

[illegible]

Memo

To: City Planning Commission

From: Planning Staff

Date: June 4, 2018

Re: Variance #18-6-18 - A request by Neal Morrison, agent for Roger Cook, for Board of Zoning Adjustment consideration of a zoning variance request from the required street access from Major Collector or higher street classification to a Local Road at 12201 Old Highway 71

REQUESTED VARIANCE

Approval of the variance will facilitate a requested rezoning to Commercial Moderate (C-3), which requires access to a Major Collector or higher street classification.

LOT LOCATION AND SIZE

The subject property is on the east side of Old Highway 71 and just south of Spring Mountain Road. The tract contains an area of 2.82 acres with approximately 378 feet of street frontage along Old Highway 71.

EXISTING ZONING

The proposed zoning on this tract is Commercial Moderate (C-3). Characteristics of this zone are as follows:

Purpose:

To provide for general commercial activities, offices, and services for the community. The C-3 zoning district promotes a broad range of commercial activities, operations, and services that are dispersed throughout the City and designed at a smaller scale than a regional center. The C-3 zoning district is appropriate in the General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-3 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, parking garage, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 12,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 60,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size for Rezoning – 2 acres	
Minimum Lot Width – 75 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 20 feet	
Rear Yard Setback - 20 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Moderate (C-3) and developed as offices.

The area to the east is zoned Commercial Moderate (C-3) and developed as a car wash, restaurant and retail.

The area to the south is zoned Commercial Moderate (C-3) and developed as a vacant school house and a warehouse.

The area to the west is zoned Commercial Heavy (C-5) and undeveloped and an area that is Not Zoned and is developed as single family residence.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Old Highway 71 as a Local Road.

MASTER LAND USE PLAN COMPLIANCE

The property is currently not classified. The proposed Master Land Use Plan classifies the site as GENERAL COMMERCIAL. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community.

APPLICANT HARDSHIP

This variance request accompanies a rezoning request for a Commercial Moderate (C-3) zoning. This zone requires access from a Major Collector or higher street classification, which the property lacks. Access will be provided by Old Highway 71 which presently serves other C-3 and C-5 properties within the area. Old Highway 71 meets the Major Collector right-of-way width of 70 feet and currently functions as a Major Collector.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Wednesday, May 30, 2018, 5:30 p.m. at 12201 Old Highway 71. One surrounding property owner attended the meeting and had no objections. A copy of the attendance record and meeting summary are enclosed.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

The Engineering Department has reviewed the street access variance and has previously commented that "Old Highway 71 technically is classified a residential/local street." Also, on April 10, 2018, the BZA granted the same type of variance for the property at 12309 and 12319 Old Highway 71, which is immediately south of the subject property and had also requested a C-3 zoning district.

Giving consideration of the existing conditions it appears the variance request is justified.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 12201 Old Hwy 71, Existing or Proposed

Zoning Classification General Commercial (C-3), has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

FROM

TO

<u> </u>	-	<u> </u>	Front Yard Setback or Minimum Distance from Right-of-Way
<u> </u>	-	<u> </u>	Exterior Side Yard Setback
<u> </u>	-	<u> </u>	Interior Side Yard Setback
<u> </u>	-	<u> </u>	Rear Yard Setback
<u> </u>	-	<u> </u>	Maximum Height of Structure
<u> </u>	-	<u> </u>	Minimum Distance Between Structures on the Same Lot
<u> </u>	-	<u> </u>	Minimum Lot Area (Square Feet)
<u> </u>	-	<u> </u>	Minimum Lot Frontage
<u> </u>	-	<u> </u>	Maximum Size of a Sign
<u> </u>	-	<u> </u>	Other: <u>Required Street Access: Major Collector or Higher</u>

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this _____ day of _____, 20____.

Signed:

Neal Morrison
Owner or Agent Name (*please print*)

Owner

479-452-1933
Owner or Agent Phone Number

or

Agent

5704 Euper Ln, Ft. Smith, AR 72903
Owner or Agent Mailing Address

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u> X </u>	Is this variance needed because of previous actions taken by a prior owner?
<u> </u>	<u> X </u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u> </u>	<u> X </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u> X </u>	Is the lot of an odd or unusual shape?
<u> </u>	<u> X </u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> X </u>	<u> </u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u> </u>	<u> X </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u> X </u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u> X </u>	Is the lot developed with structures in violation of current zoning requirements?
<u> </u>	<u> X </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

N/A

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

This variance request accompanies a re-zoning request for a C-3 zone. This zone requires

Major Collector Access which the property lacks. However, access will be provided by Old

Hwy 71 which presently serves other C-3 and C-5 properties in the area. Old 71 meets the

Major Collector right-of-way width of 70 feet and currently functions as a Major Collector.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

None

(Please Type or Print)

ADDRESS

90

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

See attached Exhibit "A"

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

None

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Neal Morrison to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Roger Cook
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

Roger Cook

This form is necessary only when the person representing this request does not own all the property.

Exhibit "A"

June 26, 2017

Boundary Description:

Part of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section 24, Township 7 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

Commencing at an existing ½ "rebar marking the Southwest Corner of the SW/4 of the SW/4 of said Section 24; Thence along the west line of said Section 24, North 02° 19' 31" East a distance of 268.69 feet; Thence leaving said west line, North 87° 23' 04" East a distance of 50.19 feet to the Point of Beginning, said point being on the easterly Right-of-Way line of Old US Highway 71; Thence along said easterly line, 165.69 feet northwesterly along the arc of a curve to the right, said curve having radius of 919.93 feet, and being subtended by a chord bearing and distance of North 02° 49' 15" West, 165.47 feet; Thence continuing along said easterly line, North 02° 15' 00" East a distance of 213.58 feet to the north line of a certain tract of land described in Deed Document G-7176373; Thence along said north line, South 87° 48' 11" East a distance of 255.48 feet to the west line of Didier Commercial Park, Lot 2A & Lot 2B; Thence along said west line, South 27° 41' 13" East a distance of 320.31 feet; Thence leaving said west line, South 62° 18' 47" West a distance of 157.46 feet to a set ½" rebar and cap stamped with PS No. 1703, said point being on the north line of the Vozel tract described in a Warranty Deed found in Book 117, Page 484 with the Greenwood district Sebastian County Clerk; Thence along said north line, South 87° 23' 04" West a distance of 265.21 feet to the Point of Beginning, containing 2.82 acres more or less, according to a survey by Morrison and Shipley Engineers, Inc., Job No.RCR-01, and being subject to any public road rights-of-way, or easements of record.

(Didier Commercial Park, Lot 1E & Lot 1H, filed for record 3/31/2011. North ADJ line)

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 12201 Old Hwy. 71

Meeting Time & Date 5:30 pm, May 30, 2018

Meeting Purpose Rezoning and Variance Applications for 12201 Old Hwy. 71

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Wally Bailey	CFS	City 784-2216
2.	Moody Ham	12324 Old Hwy 71	646 3098
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			



May 30, 2018

Meeting Minutes for Proposed Rezoning, 12201 Old Highway 71

Prepared by Neal Morrison, P.E.

1. The meeting began at approximately 5:30 p.m. and a sign in sheet was made available to attendees (copy attached).
2. Mr. Wally Bailey was present on behalf of the City of Fort Smith.
3. Present on behalf of the applicant were:

 Neal Morrison
 Roger Cook
4. Mr. Moody Hamm was the only other attendee at the meeting. Mr. Hamm stated that he did not oppose the rezoning, and came by just to ask what was planned for the property. Mr. Cook said he has no immediate plans to develop the property.
5. The meeting was adjourned at approximately 6:00 p.m.

Variance #18-6-18, Master Land Use #5-6-18 and Rezoning #14-6-18
12201 Old Highway 71

Legend



Variance #18-6-18: From the required street access on a Major Collector or higher street classification
12201 Old Highway 71



Master Land Use Plan Amendment

Memo

To: City Planning Commission

From: Planning Staff

Date: June 4, 2018

Re: Proposed Master Land Use Plan Amendment #5-6-18 - by Neal Morrison, agent for Roger Cook, at 12201 Old Highway 71 from Not Classified to General Commercial

The Planning Department is in receipt of an application from Neal Morrison, agent for Roger Cook, to amend the Master Land Use Map from Not Classified to General Commercial to accommodate a proposed Commercial Moderate (C-3) zoning request. The subject property is on the east side of Old Highway 71 and just south of Spring Mountain Road. The tract contains an area of 2.82 acres with approximately 378 feet of street frontage along Old Highway 71.

The property is currently Not Zoned. A companion zoning application requests a Commercial Moderate (C-3) zoning district. The Master Land use Plan is a guide to zoning and development and must be considered with the companion application.

ADJACENT LAND USE CLASSIFICATIONS AND USES

Land Use classification and use contiguous to the subject lot are as follows:

The area to the north is Not Classified and is developed as offices, car wash and retail.

The area to the east is classified as General Commercial and is developed as restaurant.

The area to the south is classified as General Commercial and Not Classified and is developed as a vacant school house, warehouse and undeveloped property.

The area to the west is Not Classified and is developed as a single family residence and undeveloped property.

Characteristics and Use:

The proposed Land Use classification of GENERAL COMMERCIAL is described as follows:

General Commercial is intended to provide opportunities for business transactions and activities, and meet the consumer needs of the community.

Criteria for Designation:**Compliance Noted**

- | | |
|---|-----|
| • Compatible with and complimentary to surrounding uses. | Yes |
| • Located on high volume arterials and collectors | No* |
| • Located as a cluster of like services | Yes |
| • Accessible by most modes of transportation | Yes |
| • Appropriately located for minimum impact of adjacent uses,
and, by volume of activity and trips generated by use | Yes |

*Applicant has applied for a variance for the required street access. The same type of variance was granted to the property owner immediately south of the subject property on 4/10/18.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Not Classified.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Old Highway 71 as a Local Road.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Wednesday, May 30, 2018, 5:30 p.m. at 12201 Old Highway 71. One surrounding property owner attended the meeting and had no objections. A copy of the attendance record and meeting summary are enclosed.

STAFF COMMENTS AND RECOMMENDATIONS

Considering the existing development and land use classification of the surrounding properties, the requested Master Land Use Plan amendment is consistent with existing conditions.

Application Type

☒ **Minor Amendment** ☐ **Standard Amendment** ☐ **Major Amendment**
(See Section 27-328-5 C. (Criteria))

Request to Amend Map ☒ **Request to Amend Text** ☐

Applicant Name: Neal Morrison	
Firm Name: Morrison Shipley Engineers, Inc.	
Address: 5704 Euper Ln, Ft. Smith, AR 72903	
Phone # (day): 479-452-1933	Phone # (cell): Fax #:
Owner Name: Roger Cook	
Owner Address: P.O. Box 10082, Ft. Smith, AR 72917	
Phone # (day): 479-452-0006	Phone # (cell): Fax #:
Property Address (subject property): 12201 Old Hwy 71, Ft. Smith, AR 72916	
Subject Property	
Current Land Use: Unzoned	
Existing MLUP Classification: None	
Proposed MLUP Classification: General Commercial	
Existing Zoning Classification: Unzoned	
Proposed Zoning Classification: Commercial Moderate (C-3)	
Surrounding Property	
Current Land Use: north- Commercial and Office	
south- Storage building, Pasture	
east- Restaurant	
west- Electrician, Residential	
Existing MLUP Classification: north: General Commercial	
south: General Commercial	
east: General Commercial	
west: None	
Existing Zoning Classification: north: Commercial Moderate (C-3)	
south: Commercial Moderate (C-3)	
east: Commercial Moderate (C-3)	
west: Commercial Heavy (C-5), and Unzoned	
Pre-Application Meeting Date:	

For a Minor, Standard or Major Master Land Use Plan Amendment, please attach the following information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

1. A legal description of the subject property that is to be amended (reclassified).
2. A map of the property which includes the scaled distance, legal description, and general vicinity map inset showing the property's location.
3. The area dimensions of the property in square feet or acres.

4. Describe existing road conditions and new roads to be included in the development and the effect of the proposed development on existing roads and traffic conditions:

The existing road (Old Hwy 71) is a 22-foot wide asphalt pavement with a 70-ft wide right-of-way. It was formerly a U.S. Highway. The existing 70-foot right-of-way meets the major collector standard. No improvements are proposed for the existing road which currently functions as a Major Collector.

5. Describe the existing public utility services and infrastructure (such as water, sewer, fire/police) which are available to the property and the source/method of providing additional utilities and infrastructure to the property if necessary:

Water and sewer available

6. Provide a statement of the proposed build-out density and maximum potential build-out density (units per acre) permitted by the proposed land use classification:

Build-out Density will be compliant with the proposed C-3 zoning.

7. Identify any known or anticipated environmental concerns:

None

For a Standard or Major Master Land Use Plan Amendment only, please attach the following additional information and answer the questions below. You may provide answers on a separate sheet and attach it to this application:

8. An analysis of the impact of the amendment on surrounding properties and plans in terms of:

- a. Describe potential changes to development patterns in terms of local and regional impacts:

- b. Describe the consistency in zoning between existing and planned uses:
Consistent with properties to the North, South, East, and West all zoned General

- c. Provide explanation of the need for and demand in the proposed uses:

9. Provide an analysis of the long term development plan for the area (10-20 years) which incorporates a review of the land use, transportation, and infrastructure impact to both the City of Fort Smith and the property owner:

For a Comprehensive Plan-Text Amendment only, please attach the following information. Provide answers on a separate sheet and attach it to this application:

1. A typewritten copy of the proposed changes to the text in underline/strikeout (also known as “track changes”) format.
2. A description of the reasons supporting the amendment and the special circumstances requiring the change:

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Neal Morrison to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Roger Cook

Roger Cook

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

This form is necessary only when the person representing this request does not own all property.

Certification

Once an application has been deemed complete, the applicant shall not modify it unless requested or agreed upon by the Planning Department. Should the applicant request a modification to the application after it has been advertised for public hearing, it shall be at the discretion of the Planning Commission to review or continue the application. A re-advertising fee may be required.

I, the undersigned applicant, hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief. I grant the appropriate City personnel permission to enter the subject property during reasonable hours so that they may investigate and review this application.

Roger Cook
Signature (Agent/Owner)

5-16-18
Date

The City of Fort Smith requires complete applications. If your application does not include all of the information required for submission, it will not be processed.

Exhibit "A"

June 26, 2017

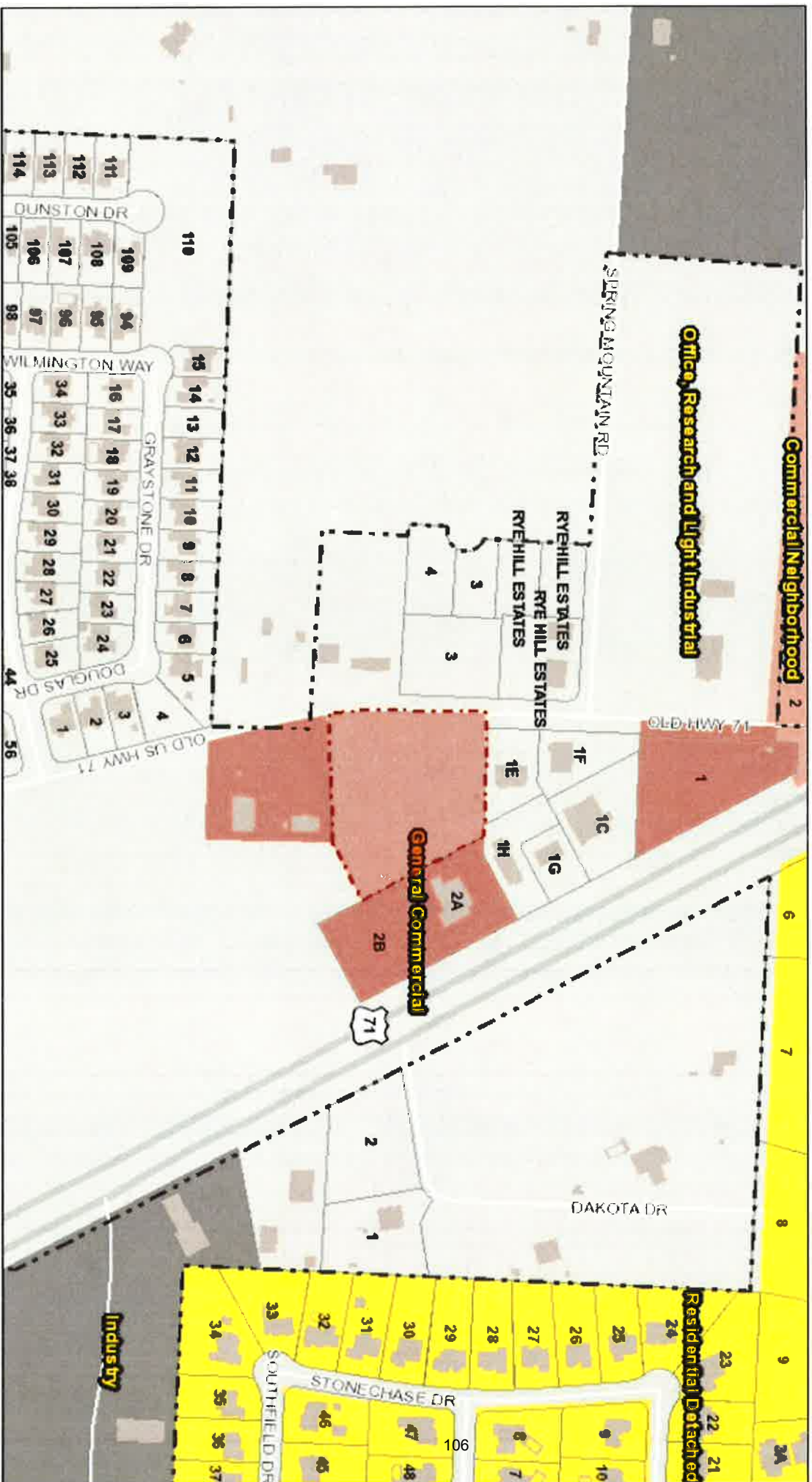
Boundary Description:

Part of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section 24, Township 7 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

Commencing at an existing ½ "rebar marking the Southwest Corner of the SW/4 of the SW/4 of said Section 24; Thence along the west line of said Section 24, North 02° 19' 31" East a distance of 268.69 feet; Thence leaving said west line, North 87° 23' 04" East a distance of 50.19 feet to the Point of Beginning, said point being on the easterly Right-of-Way line of Old US Highway 71; Thence along said easterly line, 165.69 feet northwesterly along the arc of a curve to the right, said curve having radius of 919.93 feet, and being subtended by a chord bearing and distance of North 02° 49' 15" West, 165.47 feet; Thence continuing along said easterly line, North 02° 15' 00" East a distance of 213.58 feet to the north line of a certain tract of land described in Deed Document G-7176373; Thence along said north line, South 87° 48' 11" East a distance of 255.48 feet to the west line of Didier Commercial Park, Lot 2A & Lot 2B; Thence along said west line, South 27° 41' 13" East a distance of 320.31 feet; Thence leaving said west line, South 62° 18' 47" West a distance of 157.46 feet to a set ½" rebar and cap stamped with PS No. 1703, said point being on the north line of the Vozel tract described in a Warranty Deed found in Book 117, Page 484 with the Greenwood district Sebastian County Clerk; Thence along said north line, South 87° 23' 04" West a distance of 265.21 feet to the Point of Beginning, containing 2.82 acres more or less, according to a survey by Morrison and Shipley Engineers, Inc., Job No.RCR-01, and being subject to any public road rights-of-way, or easements of record.

(Didier Commercial Park, Lot 1E & Lot 1H, filed for record 3/31/2011. North ADJ line)

Master Land Use Plan #5-6-18: From Not Classified to General Commercial
12201 Old Highway 71





May 30, 2018

Meeting Minutes for Proposed Rezoning, 12201 Old Highway 71

Prepared by Neal Morrison, P.E.

1. The meeting began at approximately 5:30 p.m. and a sign in sheet was made available to attendees (copy attached).
2. Mr. Wally Bailey was present on behalf of the City of Fort Smith.
3. Present on behalf of the applicant were:

 Neal Morrison
 Roger Cook
4. Mr. Moody Hamm was the only other attendee at the meeting. Mr. Hamm stated that he did not oppose the rezoning, and came by just to ask what was planned for the property. Mr. Cook said he has no immediate plans to develop the property.
5. The meeting was adjourned at approximately 6:00 p.m.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 12201 Old Hwy. 71

Meeting Time & Date 5:30 pm, May 30, 2018

Meeting Purpose Rezoning and Variance Applications for 12201 Old Hwy. 71

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Wally Bailey	CFS	City 784-2216
2.	Moody Ham	12324 Old Hwy 71	646 3098
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

Memo

To: City Planning Commission

From: Planning Staff

Date: June 4, 2018

Re: Zoning #14-6-18 - A request by Neal Morrison, agent for Roger Cook, for Planning Commission consideration of a zone request from Not Zoned to Commercial Moderate (C-3) by extension at 12201 Old Highway 71

PROPOSED ZONING

The requested zoning will allow the property to have the same zoning district as the properties located to the north, south, and east of the subject property. No development is proposed at this time. The property owner has requested a deferral of the development plan.

LOT LOCATION AND SIZE

The subject property is on the east side of Old Highway 71 and just south of Spring Mountain Road. The tract contains an area of 2.82 acres with approximately 378 feet of street frontage along Old Highway 71.

REQUESTED ZONING

The proposed zoning on this tract is Commercial Moderate (C-3). Characteristics of this zone are as follows:

Purpose:

To provide for general commercial activities, offices, and services for the community. The C-3 zoning district promotes a broad range of commercial activities, operations, and services that are dispersed throughout the City and designed at a smaller scale than a regional center. The C-3 zoning district is appropriate in the General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-3 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, parking garage, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 12,000 square feet	Maximum Height - 35 feet (1+1)
Maximum Building Size – 60,000 square feet	Maximum Lot Coverage - 60%
Minimum Parcel/Lot Size for Rezoning – 2 acres	
Minimum Lot Width – 75 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 20 feet	
Rear Yard Setback - 20 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Collector or higher	

EXISTING ZONING

The property is currently Not Zoned.

SURROUNDING ZONING AND LAND USE

The area to the north is zoned Commercial Moderate (C-3) and developed as offices.

The area to the east is zoned Commercial Moderate (C-3) and developed as a car wash, restaurant and retail.

The area to the south is zoned Commercial Moderate (C-3) and developed as a vacant school house and a warehouse.

The area to the west is zoned Commercial Heavy (C-5) and undeveloped and an area that is Not Zoned is developed as single family residence.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Old Highway 71 as a Local Road. The applicant has requested a variance from the required street access for the C-3 zoning district.

MASTER LAND USE PLAN COMPLIANCE

The proposed Master Land Use Plan classifies the site as GENERAL COMMERCIAL. This classification is to provide opportunities for business transactions and activities, and meet the consumer needs of the community.

NEIGHBORHOOD MEETING

A neighborhood meeting was held Wednesday, May 30, 2018, 5:30 p.m. at 12201 Old Highway 71. One surrounding property owner attended the meeting and had no objections. A copy of the attendance record and meeting summary are enclosed.

STAFF COMMENTS AND RECOMMENDATIONS

This property was annexed in 2005 but has not had any master land use plan or zoning designations. Considering the existing zoning districts and developments of the surrounding properties, the requested C-3 zoning district is consistent.

Staff recommends approval with following comments:

1. Development plan approval upon future development.
2. Approval of the companion master land use map amendment and variance request.

PETITION FOR CHANGE IN ZONING MAP

Before the Planning Commission of the City of Fort Smith, Arkansas

The undersigned, as owner(s) or agent for the owner(s) of the herein described property, makes application for a change in the zoning map of the City of Fort Smith, Arkansas, pursuant to Ordinance No. 3391 and Arkansas Statutes (1974) 19-2830, representing to the Planning Commission as follows:

1. The applicant is the owner or the agent for the owner(s) of real estate situated in the City of Fort Smith, Sebastian County, Arkansas, described as follows: (Insert legal description)

See Exhibit "A"

2. Address of property: 12201 Old Hwy 71
3. The above described property is now zoned: Unzoned
4. Application is hereby made to change the zoning classification of the above described property to Commercial Moderate (C-3) by Extension.
(Extension or classification)
5. Why is the zoning change requested?
To match the surrounding area
6. Submit any proposed development plans that might help explain the reason for the request.

Signed:

Neal Morrison
Owner or Agent Name
(please print)

Owner

5704 Euper Ln, Ft. Smith, AR 72903
Owner or Agent Mailing Address

or

Agent

479-452-1933
Owner or Agent Phone Number



May 16, 2018

Ms. Brenda Andrews
Senior Planner, City of Fort Smith Planning Department
623 Garrison Avenue, Room 331
Fort Smith, Arkansas 72901

Re: Rezoning Application
 12201 Old Highway 71 for Roger Cook

Dear Brenda,

I am submitting a rezoning, variance and master land use plan amendment applications for the subject property on behalf of Mr. Roger Cook. By copy of this letter, I respectfully request that we be allowed to defer submittal of the Site Development plan until a later date as Mr. Cook has no immediate plans to sell or develop the property.

Thank you for your consideration.

Sincerely,
Morrison-Shipley Engineers, Inc.

A handwritten signature in blue ink that reads 'Neal T. Morrison'. The signature is written in a cursive, flowing style.

Neal T. Morrison, P.E.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the undersigned, as owner(s) or agent for the owner(s) of the following described property in the Fort Smith District of Sebastian County, Arkansas, to wit:

Address of property 12201 Old Hwy 71 has filed with the Director of Planning a
(Street Address)

written application pursuant to Section 4-1 of the Zoning Code of the City of Fort Smith

Arkansas, to request a zone change from Unzoned to Commercial Moderate (C-3)

by Extension.
(Classification or Extension)

The undersigned will present said application to the City Planning Commission at its first regular meeting following the expiration of fifteen(15) days from the date of this publication, at which meeting the Planning Commission will conduct a public hearing on said application. All interested persons are invited to attend and are entitled to be heard.

This notice published this _____ day of _____, 20____.
(City will insert Date)

LETTER REGARDING RESTRICTIVE COVENANTS

Restricted covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property *(Insert legal description)*

See Exhibit "A"

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land except as follows: *

None


Signature

(* If no restrictive covenants exist, indicate "none".)

LIST OF OWNERS OF ALL PROPERTY WITHIN 300 FEET

(Please Type or Print)

The Planning Department is required to give notice (in writing) of this application to all surrounding property owners. List the name and address of the owner of every piece of property within 300 feet of any part of the property. This information may be obtained at the County Assessor's Office located in the Sebastian County Courthouse - Room 107. Please call the Tax Assessor's Office at 783-8948 for an appointment. (The Planning Department will mail the notices for you.)

	<u>NAME</u>	<u>ADDRESS</u>
1.	<u>Buck & Bull Farm, LLC</u>	<u>10309 Tommy Hawk Road, Bentonville, AR 72712</u>
2.	<u>Four Corks, LLC</u>	<u>12100 Hwy 71S, Suite A, Ft. Smith, AR 72916</u>
3.	<u>JK Fort Smith Office Building, LLC</u>	<u>1695 E Rainforest Rd, Suite 2, Fayetteville, AR 72703</u>
4.	<u>Didier Properties LLC</u>	<u>8601 Howard Hill Rd, Ft. Smith, AR 72916</u>
5.	<u>Pharmacy Specialties Group, Inc.</u>	<u>12100 Hwy 71S, Suite A, Ft. Smith, AR 72916</u>
6.	<u>JJRK Investments, LLC</u>	<u>12200 Hwy 71S, Ft. Smith, AR 72916</u>
7.	<u>Dung Anh & Pham Tran</u>	<u>11711 Amanda Ln, Ft. Smith, AR 72916</u>
8.	<u>Fort Smith Investment Partners LLC</u>	<u>8601 Howard Hill Rd, Ft. Smith, AR 72916</u>
9.	<u>Felix Vozel</u>	<u>1808 Fianna Way, Ft. Smith, AR 72908</u>
10.	<u>Moody S & Euline Sue Hamm</u>	<u>12324 Old Hwy 71, Ft. Smith, AR 72916</u>
11.	<u>Ronnie E & Margherita S Morgan</u>	<u>12218 Old Hwy 71, Ft. Smith, AR 72916</u>
12.	<u>Gerald E Thomas Trust</u>	<u>P.O. Box 265, Greenwood, AR 72936</u>
13.	<u>KMW Properties</u>	<u>P.O. Box 1356, Ft. Smith, AR 72901</u>
14.	<u>Alfred & Jeanne Gstatenbauer</u>	<u>5709 Graystone Dr, Ft. Smith, AR 72916</u>
15.	<u>Frances Deweylene Lewis Irrevocable Trust</u>	<u>12401 Douglas Dr, Ft. Smith, AR 72916</u>
16.	<u></u>	<u></u>
17.	<u></u>	<u></u>

LIST OF OWNERS OF ALL PROPERTY TO BE REZONED

List the names and addresses of all owners of property included within the area requested by this petition to be rezoned.

<u>NAME</u>	<u>ADDRESS</u>
1. Roger Cook	P.O. Box 10082, Ft. Smith, AR 72917
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a rezoning by application do hereby authorize Neal Morrison to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Roger Cook

Roger Cook

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

This form is necessary only when the person representing this request does not own all property.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 12201 Old Hwy. 71

Meeting Time & Date 5:30 pm, May 30, 2018

Meeting Purpose Rezoning and Variance Applications for 12201 Old Hwy. 71

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Wally Bailey	CFS	City 784-2216
2.	Moody Ham	12324 Old Hwy 71	6463098
3.			
4.			
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11.			



May 30, 2018

Meeting Minutes for Proposed Rezoning, 12201 Old Highway 71

Prepared by Neal Morrison, P.E.

1. The meeting began at approximately 5:30 p.m. and a sign in sheet was made available to attendees (copy attached).
2. Mr. Wally Bailey was present on behalf of the City of Fort Smith.
3. Present on behalf of the applicant were:

 Neal Morrison
 Roger Cook
4. Mr. Moody Hamm was the only other attendee at the meeting. Mr. Hamm stated that he did not oppose the rezoning, and came by just to ask what was planned for the property. Mr. Cook said he has no immediate plans to develop the property.
5. The meeting was adjourned at approximately 6:00 p.m.

Exhibit "A"

June 26, 2017

Boundary Description:

Part of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section 24, Township 7 North, Range 32 West, Sebastian County, Arkansas being more particularly described as follows:

Commencing at an existing ½ "rebar marking the Southwest Corner of the SW/4 of the SW/4 of said Section 24; Thence along the west line of said Section 24, North 02° 19' 31" East a distance of 268.69 feet; Thence leaving said west line, North 87° 23' 04" East a distance of 50.19 feet to the Point of Beginning, said point being on the easterly Right-of-Way line of Old US Highway 71; Thence along said easterly line, 165.69 feet northwesterly along the arc of a curve to the right, said curve having radius of 919.93 feet, and being subtended by a chord bearing and distance of North 02° 49' 15" West, 165.47 feet; Thence continuing along said easterly line, North 02° 15' 00" East a distance of 213.58 feet to the north line of a certain tract of land described in Deed Document G-7176373; Thence along said north line, South 87° 48' 11" East a distance of 255.48 feet to the west line of Didier Commercial Park, Lot 2A & Lot 2B; Thence along said west line, South 27° 41' 13" East a distance of 320.31 feet; Thence leaving said west line, South 62° 18' 47" West a distance of 157.46 feet to a set ½" rebar and cap stamped with PS No. 1703, said point being on the north line of the Vozel tract described in a Warranty Deed found in Book 117, Page 484 with the Greenwood district Sebastian County Clerk; Thence along said north line, South 87° 23' 04" West a distance of 265.21 feet to the Point of Beginning, containing 2.82 acres more or less, according to a survey by Morrison and Shipley Engineers, Inc., Job No.RCR-01, and being subject to any public road rights-of-way, or easements of record.

(Didier Commercial Park, Lot 1E & Lot 1H, filed for record 3/31/2011. North ADJ line)

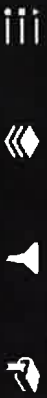
Rezoning #14-6-18: From Not Zoned to Commercial Moderate (C-3)
12201 Old Highway 71





Average Daily Traffic

Provided by ARDOT System Information & Research Division



Legend

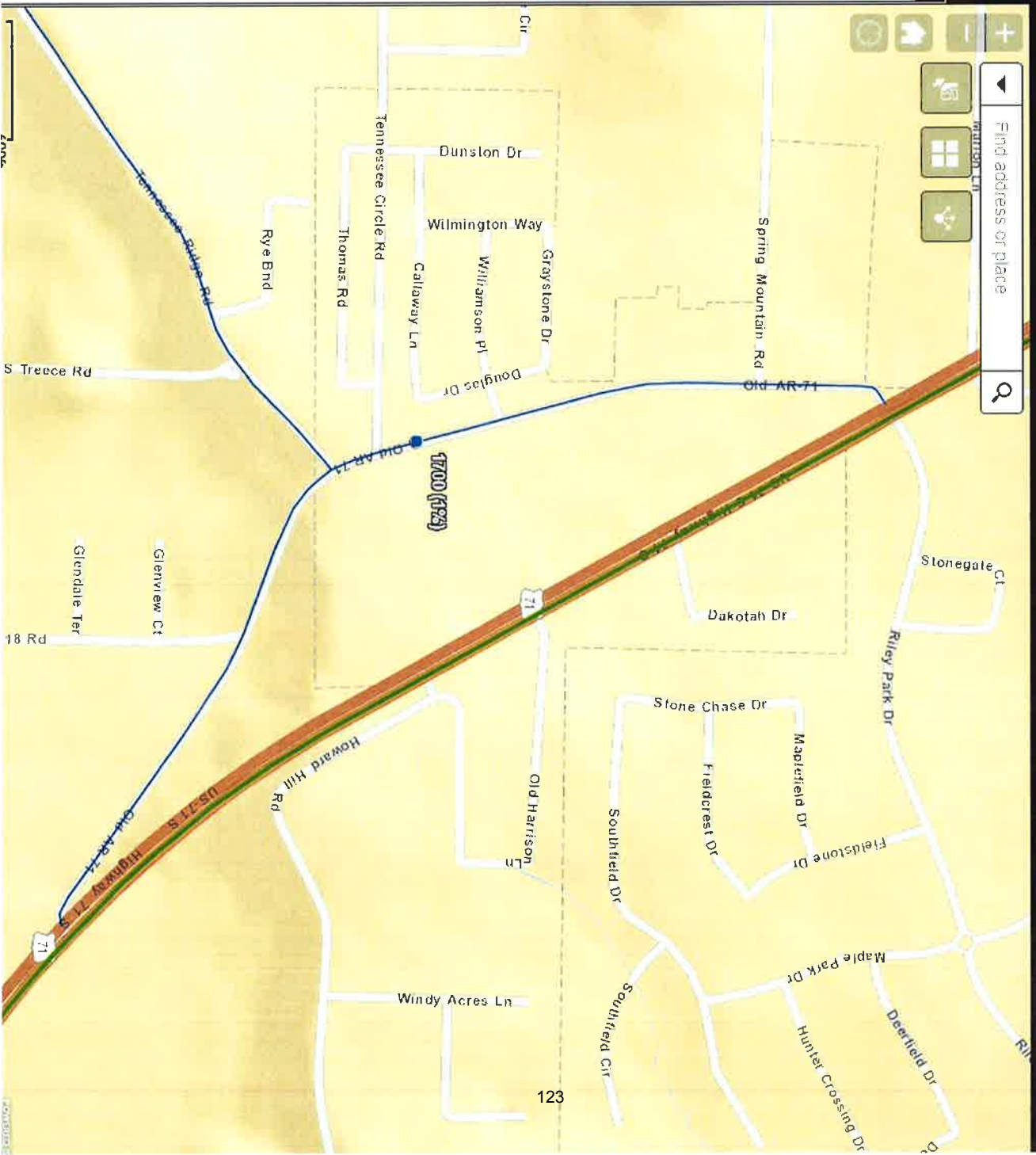
Average Daily Traffic Stations

- ATR Site
- Classification Count
- Volume Count

ADT Linear

MostRecentADT

- 50,000+
- 25,000 - 50,000
- 10,000 - 25,000
- 4,000 - 10,000
- < 4,000



Memo

To: City Planning Commission

From: Planning Staff

Date: June 4, 2018

Subject: Request for Development Plan Deferral – 12201 Old Highway 71

The Planning Department has received a request from Neal Morrison, agent for Roger Cook, for Planning Commission consideration of a deferral of a Development Plan at 12201 Old Highway 71. The applicant has requested a zoning request from Not Zoned to Commercial Moderate (C-3) by extension for a future development. At this time, the development plan has not been finalized.

The rezoning application is for a conventional zoning district of Commercial Moderate (C-3). Section 27-330-5 of the UDO requires a preliminary development plan with a conventional rezoning request. However, Section 27-330-1(B) states that the planning commission may waive or defer the requirement for a development plan upon the applicant making a request and a public hearing.

The planning commission's options are:

- 1) defer the requirement for a development plan on the rezoning application;
- 2) determine it would be better to have a development plan to help determine the disposition of the rezoning request.

Approval of the deferral will require the submittal of a Development Plan to the Planning Commission for approval prior to the issuance of building permits for development on the property.



May 16, 2018

Ms. Brenda Andrews
Senior Planner, City of Fort Smith Planning Department
623 Garrison Avenue, Room 331
Fort Smith, Arkansas 72901

Re: Rezoning Application
 12201 Old Highway 71 for Roger Cook

Dear Brenda,

I am submitting a rezoning, variance and master land use plan amendment applications for the subject property on behalf of Mr. Roger Cook. By copy of this letter, I respectfully request that we be allowed to defer submittal of the Site Development plan until a later date as Mr. Cook has no immediate plans to sell or develop the property.

Thank you for your consideration.

Sincerely,
Morrison-Shipley Engineers, Inc.

A handwritten signature in blue ink that reads 'Neal T. Morrison'.

Neal T. Morrison, P.E.



May 30, 2018

Meeting Minutes for Proposed Rezoning, 12201 Old Highway 71

Prepared by Neal Morrison, P.E.

1. The meeting began at approximately 5:30 p.m. and a sign in sheet was made available to attendees (copy attached).
2. Mr. Wally Bailey was present on behalf of the City of Fort Smith.
3. Present on behalf of the applicant were:

 Neal Morrison
 Roger Cook
4. Mr. Moody Hamm was the only other attendee at the meeting. Mr. Hamm stated that he did not oppose the rezoning, and came by just to ask what was planned for the property. Mr. Cook said he has no immediate plans to develop the property.
5. The meeting was adjourned at approximately 6:00 p.m.

ATTENDANCE LIST FOR NEIGHBORHOOD MEETING

List the names, addresses & telephone numbers of all residents/property owners who attended the meeting.

Meeting Location 12201 Old Hwy. 71

Meeting Time & Date 5:30 pm, May 30, 2018

Meeting Purpose Rezoning and Variance Applications for 12201 Old Hwy. 71

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE #</u>
1.	Wally Bailey	CFS	City 784-2216
2.	Moody Ham	12324 Old Hwy 71	6463098
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			

Memo

To: City Planning Commission

From: Planning Staff

Date: May 25, 2018

Re: Variance #17-6-18 - A request by Charles Flemming, owner, for Board of Zoning Adjustment consideration of a zoning variance request from 7.5 feet to 2.4 feet interior side-yard setback and from 10 feet to 2.5 feet rear-yard setback located at 501 North 35th Street

REQUESTED VARIANCE

The requested rear yard and interior side yard setback will allow for the owner to build a new detached garage at the old garage location.

LOT LOCATION AND SIZE

The subject property is on the northwest corner of North 35th Street and Blackburn Street. The tract contains an area of 0.27 acres with approximately 84 feet of street frontage along North 35th Street and 139 feet of street frontage along Blackburn Street.

EXISTING ZONING

The existing zoning on this tract is Residential Multifamily Medium Density (RM-3). Characteristics of this zone are as follows:

Purpose:

To provide for medium density attached homes, including multi-unit residential buildings in areas where such development already exists or is planned for the future. The RM-3 zoning district is appropriate in urban areas within the Residential Attached, Mixed Use Residential, Mixed Use Employment, Commercial Neighborhood, and General Commercial Land use categories of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings, multifamily (apartment and condominiums), community residential facility, family and neighborhood group homes and retirement housing are examples of permitted uses.

Conditional Uses:

Assisted living, bed and breakfast inn, dormitory, sorority, fraternity, rooming or boarding house, commercial communication towers, amateur radio transmitting towers, community recreation center, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes, senior citizen center, churches and rectory, convent, monastery are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 6,500 square feet	Maximum Height - 40 feet (1+1)
Maximum Density – 20 Dwelling Units/Acre	Maximum Lot Coverage - 65%
Minimum Lot Width at Building Line – 60 feet	
Minimum Street Frontage – 20 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 15 feet	
Side Yard Setback – 7.5 feet	
Rear Yard Setback - 10 feet	
Side/Rear adjacent to RS district/development – 30 feet	
Minimum building separation – 10 feet	

SURROUNDING ZONING AND LAND USE

All of the surrounding properties are zoned RM-3 and are developed as single family residences.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies North 35th Street and Blackburn Street as local roads.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Detached. This classification is intended to create and maintain stable neighborhoods, provide safe, attractive family environments, and protect property values.

APPLICANT HARDSHIP

The applicant states that he would need to relocate a private sewer line in order to reposition the building. He also states that the existing utilities would force him to access the building from the rear.

NEIGHBORHOOD MEETING

A neighborhood meeting was held on Friday, June 1st, 2018 on site. One surrounding property owner was in attendance but did not have any objections. Additionally, staff has received one phone call in support of the application.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

The applicant is requesting to build a detached garage in the same location as one that was demolished. Mr. Flemming has a private sewer line running in the middle of his back yard preventing the relocation of the garage. He did not realize that once the garage was removed the nonconforming status would be lost. If the BZA is inclined to approve the application staff request the reason be noted.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

BRENTWOOD Lot 99 BIK F

Address of property 501 North 35th, Existing or Proposed

Zoning Classification RM-3, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

FROM

TO

_____ - _____ Front Yard Setback or Minimum Distance from Right-of-Way

Exterior Side Yard Setback

7.5" - 2'4" Interior Side Yard Setback

10.1 - 2'5" Rear Yard Setback

_____ - _____ Maximum Height of Structure

Minimum Distance Between Structures on the Same Lot

_____ - _____ Minimum Lot Area (Square Feet)

_____ - _____ **Minimum Lot Frontage**

Maximum Size of a Sign

Other: _____

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 17th day of MAY, 2018.

Signed:

Charles Fleming
Owner or Agent Name (please print)

Charles Fleming
Owner

or

479-883-4223
Owner or Agent Phone Number

Agent

501 North 35th
Owner or Agent Mailing Address

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

- I. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

Yes

No

X

Is this variance needed because of previous actions taken by yourself?

X

Is this variance needed because of previous actions taken by a prior owner?

X

A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?

X

Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.

Y

Is the lot of an odd or unusual shape?

X

Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?

X

Does the lot contain required easements other than those that might be located on its perimeter?

X

Is any part of the lot in a flood plain or flood way?

X

Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?

*

X

Is the lot developed with structures in violation of current zoning requirements?

X

Does the lot front any street classified as an arterial or collector on the Master Street Plan?

* storage building & 10' setback setbacks

Explanation of question #4 (if applicable)

would put garage close or nearly under
overhead power lines

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

would need to move sewer line at a cost
of approx. \$2500.00. Utilities ^{pole guy wires} would restrict
rear entry into garage.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

Utility pole guy wires
phone utility phone box
city sewer line.
house sewer line.

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

Brentwood lot 99 Blk F

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

NONE

A handwritten signature in dark ink, appearing to read "Chris Fg", followed by a long horizontal line.

May 10, 2018

Charles Flemming
501 North 35th
Fort Smith, AR 72903

Dear Property Owner:

Please be advised that I have made a formal application to the City of Fort Smith Planning Commission for a variance from the requirements of the setback zoning regulations as they apply to the following described property:

Description: Property sits on the corner of Blackburn and North 35th. Half burnt demolished garage sat on the back Northwest corner of the property.

It is my intent to ask the Commission to allow me to rebuild the half burnt demolished garage back onto the existing concrete pad on the aforementioned property. In order to provide you an opportunity to become fully aware of my intention, I have scheduled a meeting on my front porch, June 1, 2018 at 6:30pm or you may choose to call me for further information. In any event please be advised that I'm interested in assuring you that my request should not adversely affect your property interest.

Sincerely,

Charles Flemming
479-883-4223

From: [Monaco, Tom](#)
To: [Bailey, Wally](#); [Andrews, Brenda](#); [Rice, Maggie](#); [Miller, Perry](#)
Subject: 501 North 35th Street
Date: Thursday, May 24, 2018 4:22:00 PM

I received a call from Danny Harper at 3412 Blackburn Avenue (739-5586) and she is in favor of the application.

Tom Monaco
City Planner
City of Fort Smith
P.O. Box 1908
623 Garrison Avenue Suite 331
Fort Smith, AR 72902
O - (479) 784-2218
F - (479) 784-2462
tmonaco@fortsmithar.gov

Andrews, Brenda

From: CHARLES FLEMMING [charlesflemming@cox.net]
Sent: Tuesday, June 05, 2018 6:04 AM
To: Andrews, Brenda
Subject: Variance @ 501 N. 35th

Mrs. Andrews

I had one attendee for my meeting regarding the variance application at 501 North 35th.

Raymond Deuster (479-648-1169)

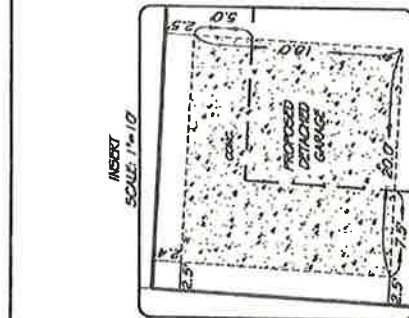
504 North 35th (owns this property)

406 Brownwood Est (lives at this address)

Voiced no concerns with project. Showed support.

Variance #17-6-18: From 7.5' to 2.4' interior side yard setback and from 10' to 2.5' rear yard setback
501 North 35th Street





Fallenfield Land Surveyors P.A., Copyright 2018

This plot is copyright material and is provided solely for the use of the person(s) named on this plot and may not be used or distributed to any other person(s) or company for their benefit. No license has been created, expressed or implied to copy the survey without the written consent of Battifield Land Surveyors, P.A. No one including the person(s) named, may reproduce this plot. Only authentic copies that appear with the surveyor's red seal in red may be used. Any copies used without this red seal are considered unauthorized copies and are considered a copyright infringement. After filing with State Surveyor's office, survey becomes public record.

SURVEYORS' DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or user by as shown on this plat. No one has the authority to use the date or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will not be responsible. Suffering no liability to any other person or company who uses this plat without written authorization. After filing with the State Surveyor's office, survey becomes public record.

[illegible]

SEBASTIAN COUNTY, ARKANSAS

LOT 99, BLOCK F, BRENTWOOD ADDITION
TO THE CITY OF FORT SMITH, ARKANSAS

FOR USE BY: CHARLES FLEMING

Sutherland Land Surveyors P.A.
P.O. BOX 404, OKLA.
1908 HWY. 71, WINTER, ARK. PHONE NO. (479) 632-1563
(479) 632-1562 FAX: (479) 632-1563
http://www.sutherlandpa.com

MEASUREMENT	S.D.	S.D.
1" = 50'	1" = 50'	1" = 50'
5" = 125'	5" = 125'	5" = 125'
1" = 125'	1" = 125'	1" = 125'
1" = 125'	1" = 125'	1" = 125'

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This survey was conducted by the written or verbal authorization of the person named as the buyer and/or user by as shown on this plat. No one has the authority to use the date or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will not be responsible. Suffering no liability to any other person or company who uses this plat without written authorization. After filing with the State Surveyor's office, survey becomes public record.

Memo

To: City Planning Commission

From: Planning Staff

Date: May 25, 2018

Re: Variance #19-6-18 - A request by Taylor Meharg, agent for Spirit Master Funding VI, LLC, for Board of Zoning Adjustment consideration of a zoning variance request from 20 feet to 0 feet interior side-yard setback located at 3100 Grand Avenue

REQUESTED VARIANCE

The variance will allow for a freezer to be installed at the southwest corner of the store.

LOT LOCATION AND SIZE

The subject property is on the south side of Grand Avenue between North 31st Street and North 32nd Street. The tract contains an approximate area of 3.3 acres with approximately 523 feet of street frontage along North 32nd Street, 562 feet of street frontage along North 32nd Street, and 205 feet of street frontage along Grand Avenue.

EXISTING ZONING

The existing zoning on this tract is Commercial Regional (C-4).
Characteristics of this zone are as follows:

Purpose:

To provide for the development of large shopping centers, mixed use developments, entertainment venues, and other appropriate land uses that serve the broad retail, commercial, and entertainment needs of the metropolitan area. The C-4 zoning district is appropriate in the Regional Center, General Commercial, Mixed Use Residential, and Mixed Use Employment classification of the Master Land Use Plan.

Permitted Uses:

A wide variety of retail uses including clothing stores, specialty shops and restaurants. Commercial-4 zones also allow professional offices and multi-family apartments, community residential facility and neighborhood group homes are examples of permitted uses.

Conditional Uses:

Orphanage, dormitory, sorority, fraternity, bicycle sales and service, beer, wine and liquor store, convenience store, restaurants with outdoor dining, pet cemetery, parking garage, utility substations, event center, community recreation center, golf course, parks, educational facilities, police station, nursing home and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 40,000 square feet	Maximum Height - 45 feet (1+1)
	Maximum Lot Coverage - 80%
Minimum Parcel/Lot Size for Rezoning – New District (By Classification) - 10 acres	
	Existing District (By Extension) – 3 acres
Minimum Lot Width – 150 feet	
Front Yard Setback - 25 feet	
Side Yard on Street Side of Corner Lot - 20 feet	
Side Yard Setback – 20 feet	
Rear Yard Setback - 20 feet	
Side/Rear (adjoining SF Residential District/Development) – 100 feet	
Minimum building separation – to be determined by current City building and fire code.	
Required street access – Major Arterial or higher	

SURROUNDING ZONING AND LAND USE

The areas to the north and east are zoned C-4 and are developed as a cluster of commercial type businesses such as bank, barber shop, thrift store, doctor's office, laundry facility, and motorcycle or ATV sales and service.

The areas to the south are zoned C-4 and Residential Single Family Medium/High Density (RS-3) and are developed as laundry (commercial/industrial) and a single family residence.

The areas to the west are zoned Commercial Heavy (C-5) and Residential Multifamily Medium Density (RM-3) and are developed as a grocery store and a private club for veterans.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Grand Avenue as a Major Arterial and North 31nd and North 32nd local roads.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Neighborhood Commercial. This classification is intended to provide convenience goods and services in a residentially compatible design, for surrounding neighborhoods, and to provide appropriate uses for sites on arterials and collectors unsuitable for residential development due to lot configuration, safety and noise.

APPLICANT HARDSHIP

The applicant explains that the west side of the building already sits on the property line creating a 0' side yard setback. The project will align with the existing building.

NEIGHBORHOOD MEETING

The neighborhood meeting was waived.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

The existing structure encroaches into the setback. The proposed freezer addition will align with the existing structure. Staff received a complaint from the property owner to the south. The complainant stated the dumpsters are always overflowing with trash and vendors block access to her driveway when making deliveries to the store.

Staff recommends approval of the request contingent upon screening the dumpsters with an opaque enclosure.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

Address of property 3100 Grand Ave., Existing or Proposed

Zoning Classification Commercial Regional (C-4) has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

<u>Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship</u>

FROM

TO

	-		Front Yard Setback or Minimum Distance from Right-of-Way
20'	-	0'	Exterior Side Yard Setback
	-		Interior Side Yard Setback
	-		Rear Yard Setback
	-		Maximum Height of Structure
	-		Minimum Distance Between Structures on the Same Lot
	-		Minimum Lot Area (Square Feet)
	-		Minimum Lot Frontage
	-		Maximum Size of a Sign
	-		Other: _____

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

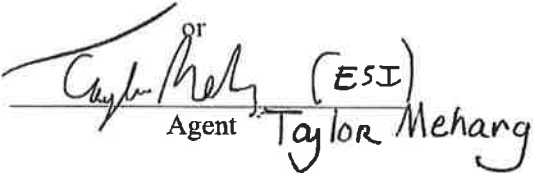
said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 18th day of May, 2018.

Signed:

Engineering Services, Inc. (ESI)
Owner or Agent Name *(please print)*

479-751-8733 870-834-7670
Owner or Agent Phone Number

1207 S Old Missouri Rd. Springdale, AR 72765
Owner or Agent Mailing Address

Owner

Agent (ESI) Taylor Meharg

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<u> </u>	<u>X</u>	Is this variance needed because of previous actions taken by yourself?
<u> </u>	<u>X</u>	Is this variance needed because of previous actions taken by a prior owner?
<u> </u>	<u>X</u>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<u>X</u>	<u> </u>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<u> </u>	<u>X</u>	Is the lot of an odd or unusual shape?
<u> </u>	<u>X</u>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<u> </u>	<u>X</u>	Does the lot contain required easements other than those that might be located on its perimeter?
<u>X</u>	<u> </u>	Is any part of the lot in a flood plain or flood way?
<u> </u>	<u>X</u>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<u> </u>	<u>X</u>	Is the lot developed with structures in violation of current zoning requirements?
<u>X</u>	<u> </u>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

The west side of the building sits on the west property line. Therefore, any development or modification to this side of the building will not meet setback requirements.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Enforcing the setback requirements at this location will not allow this project to proceed.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

The building was constructed on the west boundary line.

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

LOT 15A NIRE'S ADDITION, FILED FOR RECORD AUGUST 6, 1993 IN PLAT 1244,
BEING A REPLAT OF LOTS 15 THROUGH 33 AND THE NORTH 16 FEET OF LOT 34
MORE'S ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY,
ARKANSAS.

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows: None

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

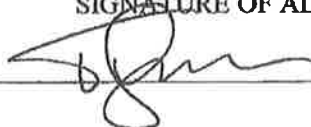
We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Engineering Services, Inc. to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

1. Spirit Master Funding VI, LLC
2. _____
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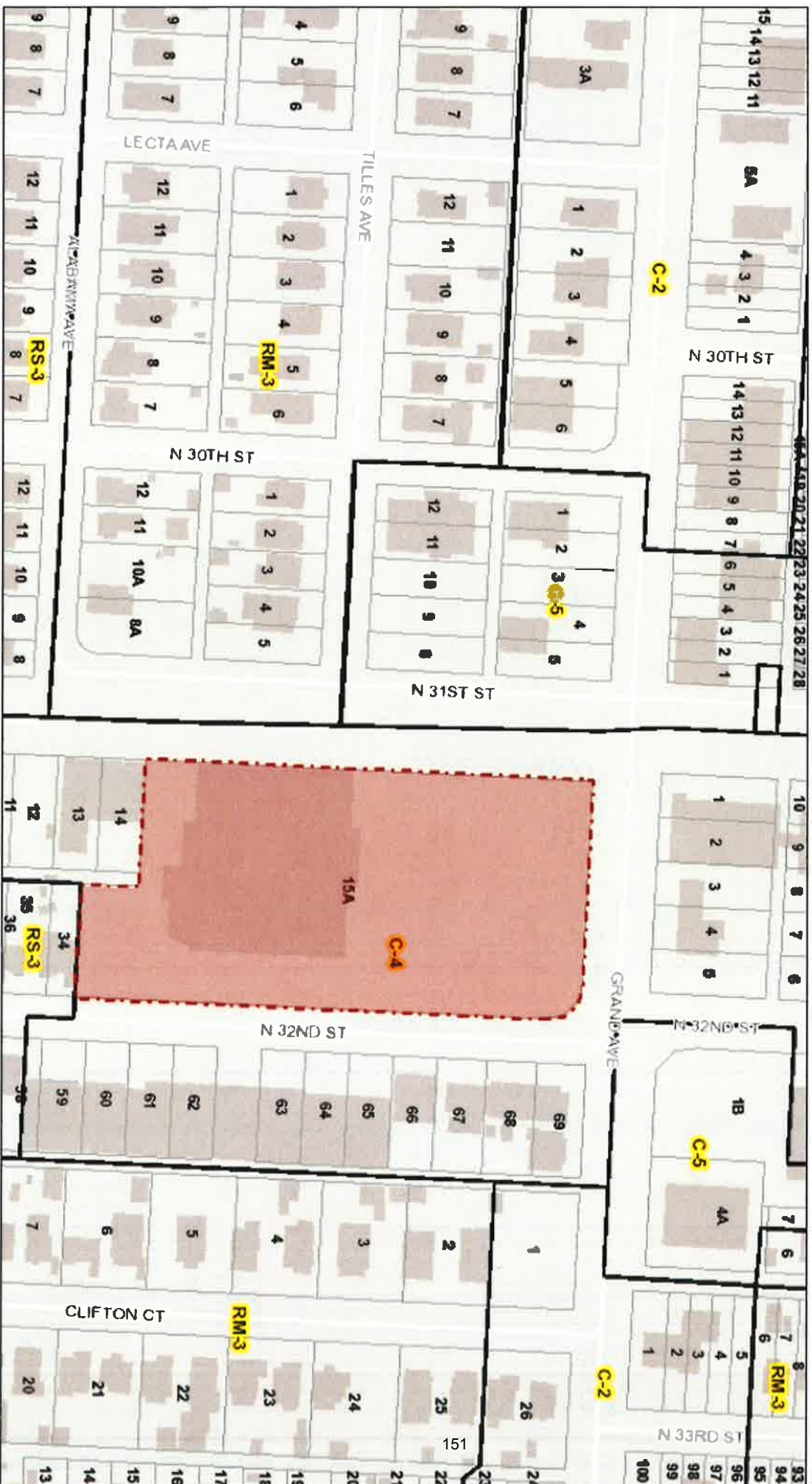
This form is necessary only when the person representing this request does not own all the property.

File:

June 6, 2018

I just received a call from Debra Gechter, daughter of the owner of the property directly to the south, wanting to know what the variance is for. I explained to her what it was for. She informed me that they currently have vendors that block the access to the drive to the back of their building, along with the dumpster on the side of the building always overflowing. She would like to propose to them to rent her building as a warehouse. After looking at the zoning map that would not work because of the C-4 zoning. The only thing licensed at that location is a dry cleaner. (831-9068) I just called and left a message for Debra.

Variance #19-6-18: From 20' to 0' interior side yard setback
3100 Grand Avenue



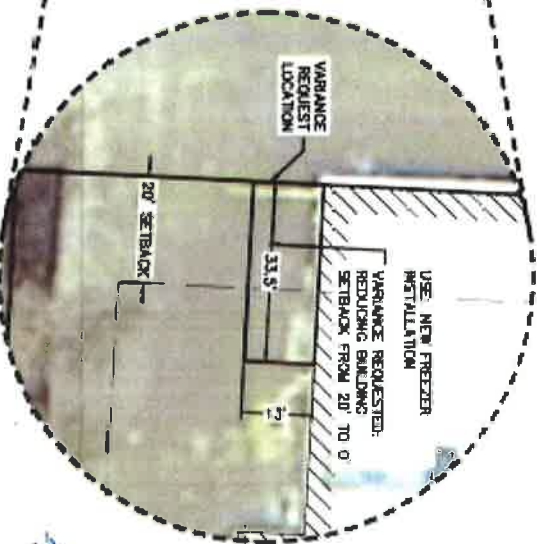
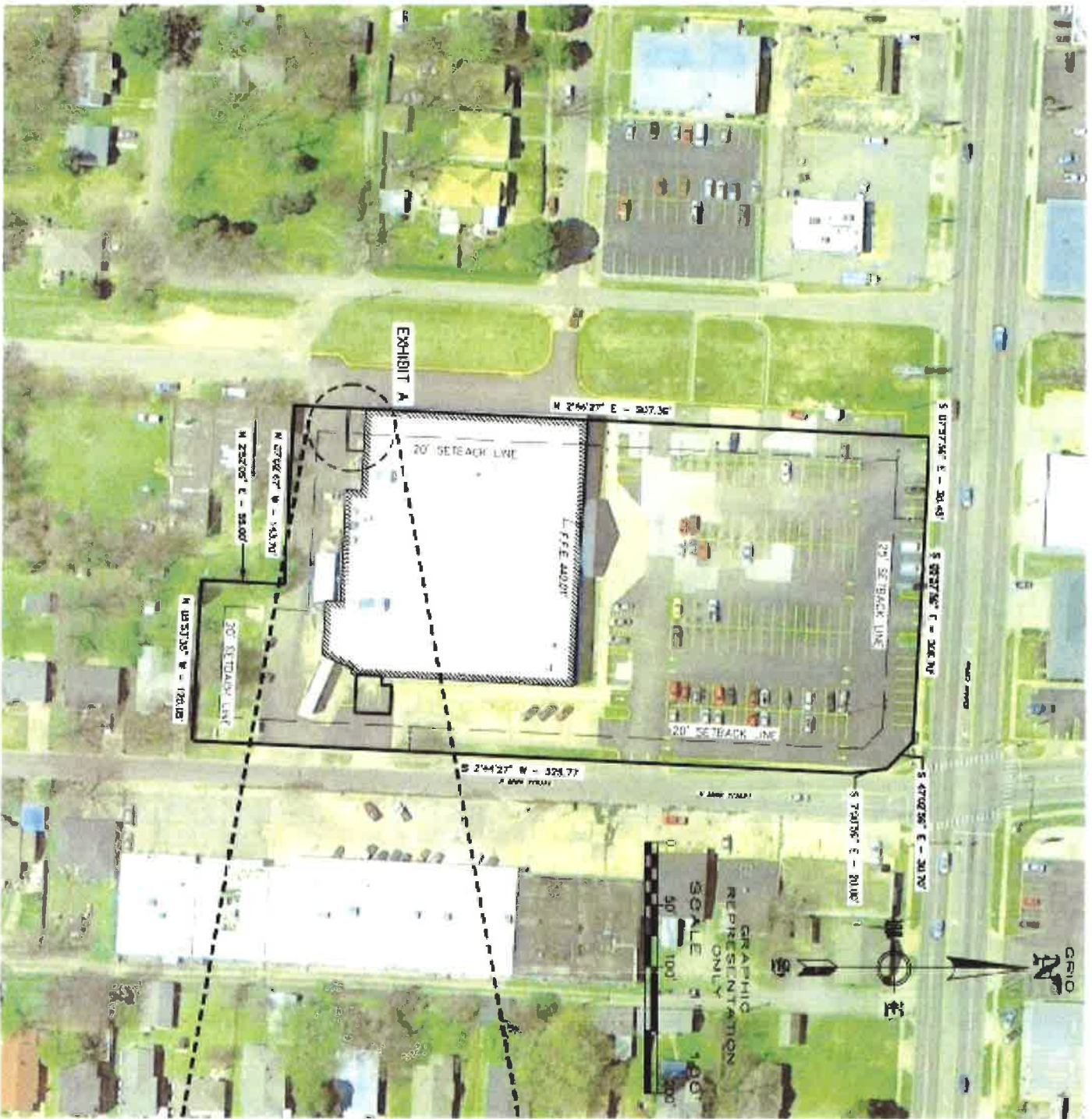


EXHIBIT A
SCALE 1"=50'

PREPARED BY:

DAVID J. HARRIS, INC.
200 S. 200th St.
Springfield, IL 62764

ENGINEER:

DAVID J. HARRIS, INC.
200 S. 200th St.
Springfield, IL 62764

OWNER:

1.35 ACRES

SITE ADDRESS:

2100 GRAND AVE. FIRST SOUTH, AN

PARCEL NUMBER:

15344-0000-0000-00

ZONING:

COMMERCIAL, INDUSTRIAL

SETBACKS:

FRONT: 20' FT
SIDE: 20' FT
REAR: 20' FT
STREET SIDE: 20' FT
REAR: 20' FT

Memo

To: City Planning Commission

From: Planning Staff

Date: May 25, 2018

Re: Variance #20-6-18 - A request by David Humphrey, owner, for Board of Zoning Adjustment consideration of a zoning variance request from 7.5 feet to 0 feet interior side-yard setback, from 10 feet to 0 feet minimum distance between structures on the same lot located at 8819 Lee Circle

REQUESTED VARIANCE

The owner is requesting to construct a covered patio and retaining wall adjacent to his house.

LOT LOCATION AND SIZE

The subject property is on the northeast corner of Lee Circle and South 89th Street. The tract contains an area of 0.31 acres with approximately 73 feet of street frontage along Lee Circle.

EXISTING ZONING

The existing zoning on this tract is Residential Single Family – Duplex Low/Medium Density (RSD-2).

Characteristics of this zone are as follows:

Purpose:

To provide for attached and detached homes in low-to-medium density neighborhoods where adequate public services and facilities are available. The RSD-2 zoning district is appropriate in suburban areas and primarily applies to the Residential Attached, Mixed Use Residential, and Mixed Use Employment category of the Master Land Use Plan.

Permitted Uses:

Single-family, duplex dwellings and family group homes are examples of permitted uses.

Conditional Uses:

Commercial communication towers, amateur radio transmitting towers, golf course, utility substation, country club, parks, college, primary and secondary schools, preschool, nursery schools, police and fire stations, daycare homes and churches are examples of uses permitted as conditional uses.

Area and Bulk Regulations:

Minimum Lot Size – 10,500 square feet
Maximum Density – 4 Dwelling Units/Acre
Minimum Lot Width at Building Line – 75 feet
Minimum Street Frontage – 50 feet
Front Yard Setback - 30 feet
Side Yard on Street Side of Corner Lot - 30 feet
Side Yard Setback – 7.5 feet
Rear Yard Setback - 10 feet
Minimum building separation – 10 feet

Maximum Height - 35 feet (1+1)
Maximum Lot Coverage - 50%

SURROUNDING ZONING AND LAND USE

The areas to the west, east, and south are zoned RSD-2 and are developed as single family residences.

The area to the north is zoned RSD-2 and is undeveloped.

MASTER STREET PLAN CLASSIFICATION

The Master Street Plan classifies Lee Circle and South 89th Street as a local road.

MASTER LAND USE PLAN COMPLIANCE

The Master Land Use Plan classifies the site as Residential Attached. This classification is intended to provide for diverse populations and households, by supporting variety and options in living environments, and housing, while protecting and improving property values.

APPLICANT HARDSHIP

The applicant explains that the topography and oddly shaped lots are creating a drainage issue. The applicant and adjacent neighbor are working together to help both parties involved.

NEIGHBORHOOD MEETING

A neighborhood meeting was held on Monday June 4th at 7:00 P.M. on site. Four surrounding property owners attended the meeting. None had any objections.

GRANTING OF A VARIANCE

If the BZA approves this variance, staff requests that it substantiate its reason for approval in accordance with Section 27-337-2 of the Unified Development Ordinance, which permits the granting of a variance only when it is demonstrated that such action is in keeping with the spirit and intent of the provisions of the zoning chapter.

STAFF COMMENTS AND RECOMMENDATIONS

Mr. Humphrey is proposing to construct a covered patio and retaining wall on the side of his house. The covered patio would not be tied in with the house but would overlap as the photographs in your packet illustrate. His side yard is very steep and has caused drainage issues for his neighbor for a very long time. Mr. Humphrey is working with his neighbor to alleviate some of the water problems caused by the steep topography. A variance must be granted in order for these improvements to be made. If the BZA is inclined to approve the application staff request the reason be noted.

APPLICATION FOR VARIANCE

Notice is hereby given that the undersigned, as owner(s) of the following property in the Fort Smith District of Sebastian County, Arkansas, to-wit: (Legal Description)

lot 7 RW Lee

Address of property *8819 Lee Circle*, Existing or Proposed

Zoning Classification *RSD-2*, has filed with the Planning Department a written application pursuant to Article 5-6 of Ordinance 2324 of the City of Fort Smith, Arkansas, to secure a variance from the literal provisions of the zoning ordinance as follows:

Office Use Only-List the Specific Variance Requested and Applicant Stated Hardship

<u>FROM</u>	<u>TO</u>	
_____	_____	Front Yard Setback or Minimum Distance from Right-of-Way
_____	_____	Exterior Side Yard Setback
<u><i>7.5'</i></u>	<u><i>0'</i></u>	Interior Side Yard Setback —
_____	_____	Rear Yard Setback
_____	_____	Maximum Height of Structure
<u><i>10'</i></u>	<u><i>0'</i></u>	Minimum Distance Between Structures on the Same Lot —
_____	_____	Minimum Lot Area (Square Feet)
_____	_____	Minimum Lot Frontage
_____	_____	Maximum Size of a Sign
_____	_____	Other: _____

The undersigned will present said application to the Board of Zoning Adjustment at the first regular City Planning Commission meeting following the expiration of seven (7) days from the date of this publication, at which meeting the Board of Zoning Adjustment will conduct a public hearing on

said application. All interested persons are invited to attend and are entitled to be heard. This notice is published this 18 day of May, 2018.

Kevin Speer -agent
David Humphrey -owner
Owner or Agent Name (please print)

479-651-3963 agent
479-459-0163 owner
Owner or Agent Phone Number

8819 Lee Circle
Owner or Agent Mailing Address

dhumphrey@arcb.com

Signed:

David Humphrey
Owner

or

Agent

Variance # _____

VARIANCE INFORMATION FORM

The following paragraph (Section 27-337-2) of the Fort Smith Unified Development Ordinance defines the criteria for granting a variance:

The Board of Zoning Adjustment shall hear requests for variances from the literal provision of the zoning chapter in instances where strict enforcement of the zoning chapter would cause undue hardship due to circumstances unique to the individual property under consideration, and shall grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning chapter. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the chapter. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

1. To aid the Board of Zoning Adjustment in arriving at a decision on your application, please note the lot information requested and check the appropriate answer to each of the questions that follow.

<u>Yes</u>	<u>No</u>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by yourself?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is this variance needed because of previous actions taken by a prior owner?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A zoning hardship is present only when a property has no reasonable use without a variance. Do you have use of your property without a variance?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is the variance needed due to the unique circumstances of the property (such as lot area, lot width, setbacks, yard requirements, or building height)? If yes, please explain on the following page.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is the lot of an odd or unusual shape?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Does the lot have "radical" topography (steep, unbuildable slopes - streams or bodies of water - unstable or eroded area)?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the lot contain required easements other than those that might be located on its perimeter?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is any part of the lot in a flood plain or flood way?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the lot smaller than minimum lot area or minimum frontage for its zoning classification?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the lot developed with structures in violation of current zoning requirements?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the lot front any street classified as an arterial or collector on the Master Street Plan?

Explanation of question #4 (if applicable)

The Humphreys are asking for a zoning variance between the Humphrey and Scheurer properties due to radical topography between the properties that doesn't allow access to the back of the properties, and it creates a significant water drainage issue, in particular for the Scheurers. We plan to extend a current patio to the east toward the Scheurer property, close to the property line, and cover the patio with a roof that is not attached to any existing structure (pictures provided). This project will include guttering on the patio roof and a retaining wall built close to the property line that will include drainage to the south (front of both properties) and thus away from the Scheurer property. Both parties are working together and in total agreement on this proposed solution.

2. Describe how the strict enforcement of the zoning code causes an undue hardship for your project:

Because we are on a cul-de-sac, the properties are oddly shaped and adjacently located. There is a significant topography issue that prevents any meaningful use of the limited ground area between the two properties. There is no available vehicle access due to this steep hill. These changes will affect the southern portion of these properties and will not affect any other property owner other than the Humphreys and the Scheurers.

3. List any special circumstances/conditions which exist that have not been created by the owner/applicant and do not apply to other properties in your area:

The radical topography between the properties was there when homes were built and has caused significant drainage challenges for nearly 35 years. We believe the retaining wall/drainage proposal will solve these issues to both parties' satisfaction. Including a covered patio is a bonus for both neighbors, who are in complete unison concerning all project changes and goals, creating a true win/win situation.

LETTER REGARDING RESTRICTIVE COVENANTS

Restrictive covenants are regulations that are maintained and enforced by the property owners of the subject subdivision. These covenants may be found in your abstract or at the County Circuit Clerks Office. Restrictive covenants are often enforced in subdivisions with homeowner's associations and can always be more restrictive but never less restrictive than the City of Fort Smith's Zoning Regulations. *(See attached additional information on restrictive covenants)*

TO: Planning Department

SUBJECT: Legal Description of Property

Lot 7 RW Lee

I have searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants running with the above described land, except as follows:

none

X

AUTHORIZATION OF AGENT

If an agent (i.e., contractor) is acting on behalf of the owner(s), all owners must sign in the space provided. This form is necessary only when the person representing this request does not own all the property.

We the undersigned, being owners of real property, and requesting a variance by application do hereby authorize Kevin Speer to act as our agent in the matter.
(Print Name of Agent)

(Type or clearly print)

NAMES OF ALL OWNERS.

SIGNATURE OF ALL OWNERS.

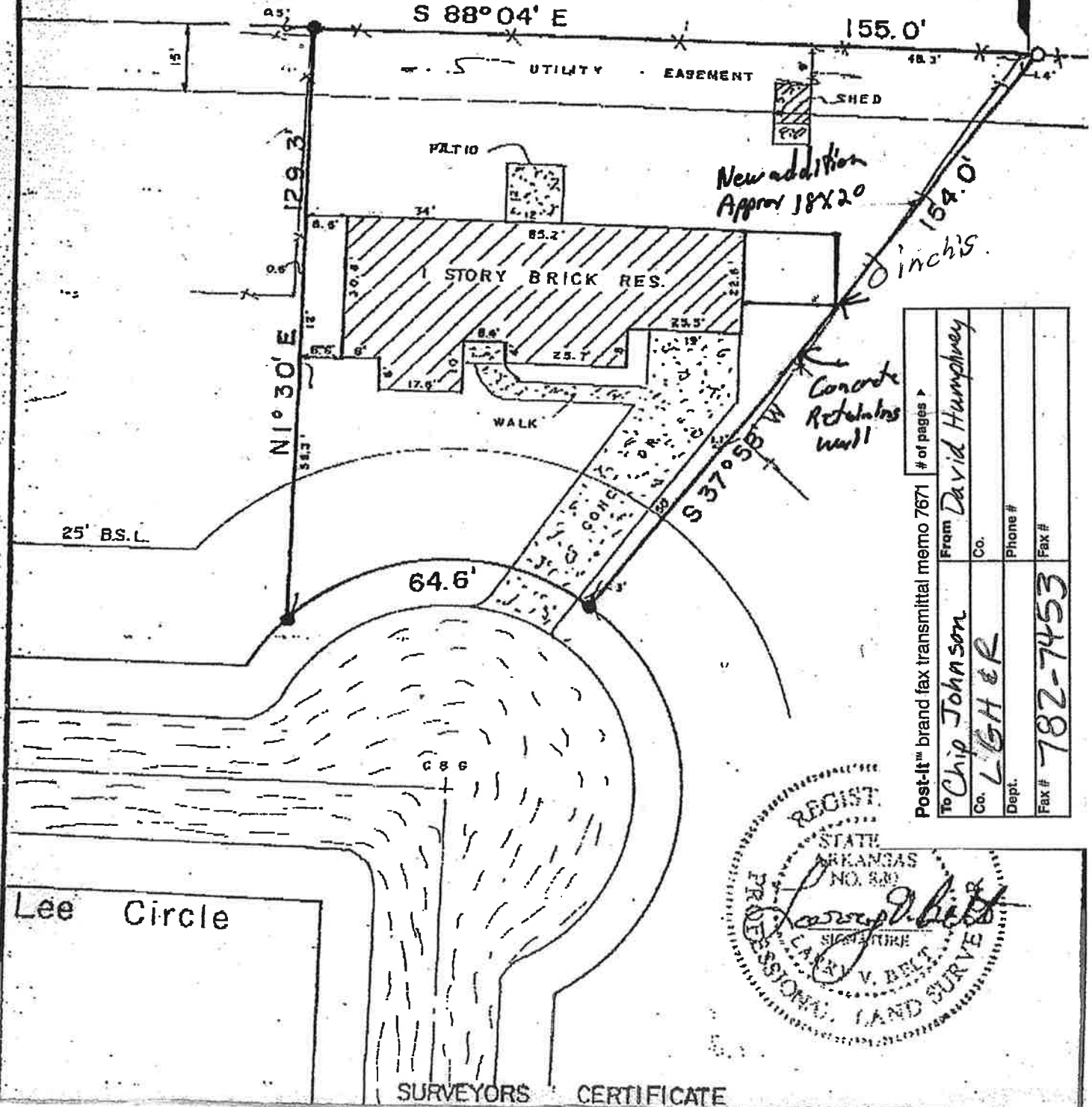
1. David Humphrey
2. _____
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13. _____

David Humphrey

This form is necessary only when the person representing this request does not own all the property.

CLIENT: Guaranty Abstract

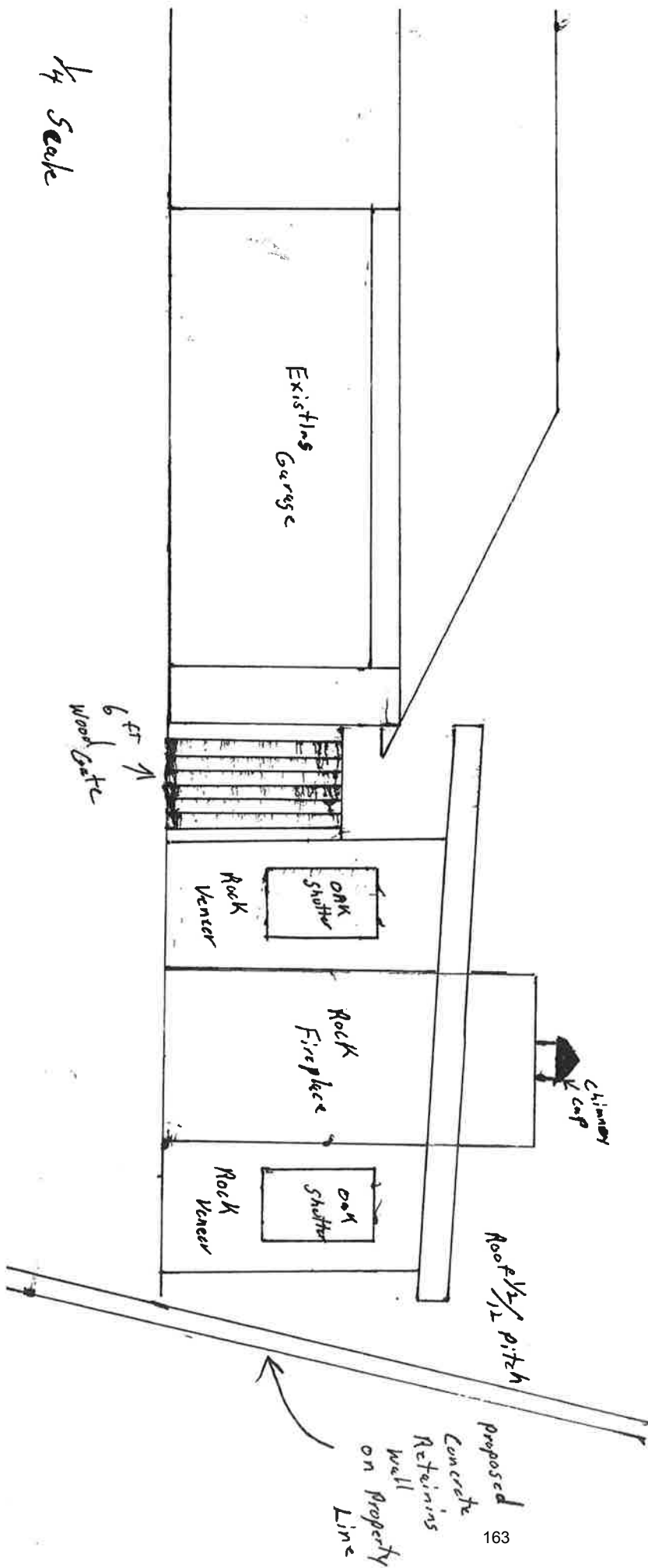
BORROWER: David Humphrey



Post-It™ brand fax transmittal memo 7671		# of pages ▶	
To	From	David Humphrey	
Chip Johnson	Co.	Co.	
L.G.H. & R.	Dept.	Phone #	
	Fax #	782-7453	



SURVEYORS CERTIFICATE



Variance #20-6-18: 1) from 7.5' to 0' interior side yard setback 2) from 10' to 0' minimum distance between structures at 8819 Lee Circle













